Supreme Court, U.S.
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No.

OFFICE OF THE CLERK

In The
Supreme Court of the United States

In re WILLIAM M. WINDSOR

WILLIAM M. WINDSOR,

Petitioner

v.

Judge Joel F. Dubina, Judge Rosemary Barkett, Judge Edward Earl Carnes, Judge James Larry Edmondson, Judge Frank M. Hull, Judge Stanley Marcus, Judge William H. Pryor, Jr., Judge Gerald Bard Tjoflat, Judge Beverly B. Martin, Judge Susan H. Black, Judge Charles R. Wilson, Judge James C. Hill, Judge Peter T. Fay, Judge Phyllis A. Kravitch, Judge R. Lanier Anderson, and Judge Emmett Ripley Cox

Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS APPENDIX

William M. Windsor
Pro Se
PO Box 681236
Marietta, GA 30068
770-578-1094

APPENDIX – VOLUME 1 CONTENTS [1]

Affidavit of William M. Windsor dated March 22, 2010.....1

[1] The affidavits and exhibits to the affidavits provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION and MAID OF THE MIST STEAMBOAT COMPANY, LTD.,	)
Plaintiffs,	) CIVIL ACTION
v.	) NO. 1:06-CV-0714-ODE
ALCATRAZ MEDIA, LLC, ALCATRAZ MEDIA, INC. and WILLIAM M. WINDSOR,	)
Defendants.	)

AFFIDAVIT OF WILLIAM M. WINDSOR IN SUPPORT OF WILLIAM M. WINDSOR'S MOTION TO DISQUALIFY JUDGE ORINDA D. EVANS

I, William M. Windsor, the undersigned, hereby declare under penalty of perjury:

1. My name is William M. Windsor ("Windsor"). I am over the age of 21, am competent to testify, and have personal knowledge of the matters stated herein.

2. I am a party to this action, and I am representing myself pro se. I am not an attorney.

3. I am a Defendant Civil Action No. 1:06-CV-0714-ODE ("MIST-1"), captioned as ***Maid of the Mist v. Alcatraz Media***, in the United States District Court for the Northern District of Georgia.[2] I am seeking to have Judge Orinda D. Evans disqualified from presiding in MIST-1.

4. Judge Evans is corrupt. She is dishonest. The proof is all here.

5. I cannot imagine that there has ever been a case with as much illegal and wrongful activity as there has been in this case. I have searched for days online, and I can find no case where the sworn pleadings filed by the Plaintiffs were essentially 100% false; where the Plaintiffs' witnesses lied under oath over 400 hundred times; where there was massive perjury and massive subornation of perjury by the Plaintiffs' attorneys; where the Plaintiffs' attorneys violated so many Rules so many times; where the Plaintiffs' attorneys filed false pleadings, false sworn pleadings, improper pleadings, and obstructed justice through massive discovery abuse; where the judge ruled in favor of

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[2] Throughout this affidavit, Citations to the Court Record in Civil Action No. 1:06-CV-0714-ODE are cited as "(MIST-1 Doc.#-Pg.#.)" Citations to the Court Record in Civil Action No. 1:09-CV-02027-WSD are cited as "(MIST-2 Doc.#-Pg.#.)" Citations to the Court Record in Civil Action No. 1:09-CV-01453-WSD are cited as (Deposition Action Doc #-Pg.#.)" "Dec#" is used to refer to the numbered declarations of William M. Windsor. All referenced docket numbers are incorporated herein as if attached hereto.

the dishonest Plaintiffs on every contested motion; where the judge displayed pervasive bias throughout the proceedings; where the judge made hundreds of absolutely, completely, totally false statements in orders that are easily proven false by the record that was before the court; where the judge committed the crimes of perjury and obstruction of justice; where the judge never granted one party a single conference or evidentiary hearing in four years; where the judge refused to recuse herself despite overwhelming evidence of basis and conflicts of interest; where the judge has failed to even act on anything filed in the case for as many as 213 days; and where the Plaintiffs were able to "steal" over $1 million from the Defendants through their illegal actions. And that's just a list off the top of my head.

6. I believe disqualification of Judge Evans is justified on many grounds. Those grounds are expressed to the best of my ability in the Motion to Disqualify Judge Evans, in the four previous motions to recuse that I have filed, and in this Affidavit.

7. My rights under the U.S. Constitution and its amendments have been severely abridged. I did my best to present these issues in MIST-1 Doc. 568 – Motion for Judicial Intervention and MIST-1 Doc. 571 – Emergency Motion for Relief from Violation of Constitutional Rights.[3]

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[3] All documents mentioned herein are referenced and incorporated herein as if attached hereto.

8. A real issue in this case is the dishonesty of judges in the U.S. District Court for the Northern District of Georgia. I am confident that I will have no problem proving the dishonesty of Judge Evans and Judge Duffey in court before a jury. I believe 12 unbiased people will rule that these judges have committed perjury and have violated my Constitutional rights.

9. I have been enjoined from filing anything with this Court in an ORDER dated December 22, 2009 ("MEGA ORDER"). So, my Motion to Disqualify is not being filed by me. It is being sent to Judge Orinda D. Evans ("Judge Evans") in hopes that it will be considered and filed by her.

10. Judge Evans will be a key witness in an upcoming contempt trial in this matter, I have provided extensive criticism of Judge Evans as a judge, and she is disqualified from presiding at the contempt trial/hearing unless I consent, and I have advised Judge Evans that I do not give consent.

11. I have accused Judge Evans of corruption and violating many criminal statutes. I am attempting to get her convicted and impeached. She cannot pretend to be impartial. She must be disqualified.

12. Upon approval of Judge Evans, I will serve notice of the MOTION TO DISQUALIFY JUDGE ORINDA D. EVANS in accordance with FRCP Rule 5(d).

13. This lawsuit is about Judge Evans, several attorneys, and five witnesses who lied again and again and again in this civil action to improperly cost the Defendants approximately one million dollars in legal fees and litigation expenses and much more.

14. Maid's managers have committed hundreds of counts of perjury and have conspired with their attorneys to commit fraud upon the courts. (Doc.377-Amended_Dec#3,Exh.1-28.) 46 of the 50 paragraphs in the Verified Complaint were false or incorrect and/or not based upon the personal knowledge of Glynn. (Third Amended Declaration of William M. Windsor ("Amended Dec #3") – Doc.377-Exh.1:Pgs.1-158, Exh. 2.)

15. Oaths theoretically require honesty. Every witness, attorney, and judge swears an oath to the truth. Attorneys and judges swear to abide by codes of conduct. But when the witnesses for Maid lied and committed perjury hundreds of times; when their attorneys suborned that perjury; when Maid attorneys violated their oaths and the law for the purpose of committing fraud upon the courts; when Judge Evans actively participated in supporting the wrongdoing; and when all the lies deceived the U.S.C.A. on appeal, the most basic rights of Windsor were obliterated.

16. The lies, false sworn pleadings, false pleadings, and discovery abuse continued throughout this proceeding. The dishonesty of Maid and Maid's attorneys was compounded by the "mistakes," dishonesty, and bias of Judge Evans,

who committed perjury, committed obstruction of justice by withholding important documents from the Defendants, violated the rights of the Defendants by denying the most basic discovery, and acted without the impartiality required of a judge. Windsor has documented everything. Evidence consists of the entire Docket, especially Docs. 377-378-462-361-362-(Exhibit I)-363-364-368-374-381-383-385-474-511-515-561-569-571.

17. On May 12, 2006, Judge Evans signed an Order Granting Preliminary Injunction (the "PI Order"). (Doc.33.) The PI Order contains as many as 39 false statements. As many as 17 of these statements are proven false by the testimony of Maid's managers. (Doc.377-Amended_Dec#3-Exh.:Pgs.1-81.) Judge Evans had the evidence before her, so she was obligated to know the facts. Judge Evans was subsequently advised by the Defendants that sworn affidavits from customers proved that the alleged proof of $100 in damages to "justify" the PI had been proven false, but Judge Evans did nothing. (Doc.174:Pg.31.)

18. On August 8, 2007, Judge Evans signed a Summary Judgment Order ("SJ Order"). (Doc.251.) As many as 210 of the 416 statements by Judge Evans are false or incorrect or are conclusions based on false statements. (Doc.377-Amended_Dec#3-Exh.22:Pgs.1-184.) Judge Evans claimed in the SJ Order that she rejected the statements of fact presented by the parties, so she drafted the facts based on the evidence. (Doc.251:Pg.3.) Judge Evans invented facts and made statements that are proven to be false by the

evidence. (Doc.377-Amended_Dec#3, Exh. 22.)

19. Judge Evans has shown pervasive bias against me from the first day that she became aware of this lawsuit. Motions have been denied because of the bias, not based upon the merits or law.

20. Judge Evans has twisted the law, rules, and facts to accomplish personal desires and cover up her wrongs and the wrongs of Maid's attorneys and Maid's managers. I filed a verified complaint against Judge Evans in Civil Action No. 1:09-CV-02027-WSD ("MIST-2") on July 27, 2009. Violations by Judge Evans are listed throughout Doc. 462 and are highlighted in ¶¶ 2609-2682 of the Verified Complaint in MIST-2

21. Undeniable proof of false statements in the orders has been documented. These were material false statements made under the Judge's oath of office in a federal proceeding. Judge Evans knew statements that she made were false because she claimed statements were evidence before the Court, and that was clearly not true.

22. Furthermore, Judge Evans was on notice that Maid's statements were false because I informed her at a hearing on February 2, 2007. [Doc. 174, P 23: 24-25, P 24: 1-7, P 34: 4-7, P 44: 6-8 – Exhibit 2 to Exhibit B.] Judge Evans ignored my claims of perjury, Rule 11 violations, and subornation of perjury. Judge Evans issued orders and the judgment based upon perjured testimony. [Doc. 361 ¶55-56.]

23. Judge Evans has committed obstruction of justice. This is explained in Docket 361 ¶9-12 and Exhibits 2 and 3.

24. The pervasive bias and improper actions of Judge Evans continued in 2009. On May 22, 2009 in Doc. 390 ("Recusal Order"), Judge Evans made many false statements. Judge Evans stated under oath as a judge that there is no evidence of bad faith by Maid and Maid's attorneys. She stated that my motion "is entirely lacking in substantive merit." But close to 2,000 pages of sworn testimony and evidence was submitted, and it was not controverted by Maid. Judge Evans lied, just as she had lied regularly between 2006 and 2009.

25. My first motion to recuse was filed on April 24, 2009 [Doc. #361] and denied on May 22, 2009 [Docket 390]. I filed Appeal No. 09-13086-DD, and this is now under consideration by The Supreme Court. Appeal No. 09-13086-DD and Petition for Writ of Certiorari dated January 15, 2010 are incorporated herein as if attached hereto.

26. My Second Motion to Recuse Judge Evans was filed on June 24, 2009. [Doc. 406]. My Third Motion to Recuse was filed on July 16, 2009. [Doc 470.] These motions were ignored. I filed a Petition for Writ of Mandamus in Appeal No. 09-16494, and those documents are referenced and incorporated herein as if attached hereto.

27. Judge Evans ignored duties in MIST-1 from May 22, 2009 to December 22, 2009. This is a violation of the Oath of Office, Code of Judicial

Conduct ("CJC"), FRCP, the law, and my Constitutional rights. 28 U.S.C. § 455 requires that judges recuse themselves sua sponte whenever appropriate. Judge Evans has ignored this obligation as well.

28. By ignoring pending motions, including the Verified Complaint of Professional Misconduct ("VCPM" - Doc. 474) against Judge Evans and others, Judge Evans violated my right to an impartial tribunal. Justices may not sit as adjudicators in cases in which they have an interest, yet Judge Evans did not disqualify herself and has instead made rulings recently on matters that directly involved her. The inaction of Judge Evans has severely impaired my ability to obtain a fair hearing and the relief that he needs from the wrongdoing. My declarations are uncontroverted.

29. Detailed background facts regarding professional misconduct of Judge Evans are provided in declarations in Docs. 406, 462.

30. The worst of hardships have resulted from the dishonesty in this case. The Defendants have lost approximately $1,000,000.00, have been saddled with an injunction that is a violation of Georgia law, have been defamed, and have lost years of man hours fighting the injustice. Now others are unfairly using the erroneous decision in this case in litigation against Alcatraz in efforts to "void" O.C.G.A. 43-4B. None of this should have happened. The hardship has been extreme, unexpected, unfair, and illegal. And it continues

31. I believe federal judges in Atlanta, Georgia are doing everything they can to cover up the illegal acts of Judge Evans and the attorneys in this matter. The 11th Circuit has wrongly ignored a Complaint of Judicial Misconduct against Judge Evans and has made false statements of fact and law and has improperly ignored appeals filed by me. (See Motion for Judicial Intervention – MIST-1 Doc. 569 and Emergency Motion for Relief from Violation of Constitutional Rights – MIST-1 Doc. 565.)

32. My sworn declarations under penalty of perjury before a notary have not been controverted with any affidavit of any type.

33. Disqualification is justified on grounds that Judge Evans acted without subject matter jurisdiction in MIST-1 by committing perjury in the PI Order on May 12, 2006 [Doc. 33], SJ Order on August 9, 2007 [Doc. 251], the Recusal Order on May 22, 2009 [Doc. 390], and the MEGA ORDER on December 22, 2009. [Doc.723.] She has also committed obstruction of justice. Judges do not have judicial authority to commit perjury and obstruction of justice.

34. Federal courts are courts of limited jurisdiction.

35. District Courts have no jurisdiction to issue injunctions that affect the functioning of state courts or appellate courts.

36. The injunction issued by Judge Evans was entered in violation of Windsor's due process rights and is void.

37. Judge Evans has completely ignored the law throughout this civil action.

38. Judge Evans completely ignored the law in issuing a Show Cause Order on March 10, 2010. The case law is OVERWHELMING that I did not violate the illegal injunction issued on December 22, 2009, just as the law is OVERWHELMING that a variety of laws were violated in issuing the injunction. (See MOTION TO VACATE dated March 22, 2010 and Rule 11 notice letter to Plaintiffs' attorneys dated March 22, 2010.)

39. On May 12, 2006, Judge Evans signed an Order Granting Preliminary Injunction (the "PI Order"). (Doc.33 and.) The PI Order contains as many as 39 false statements. As many as 17 of these statements are proven false by the testimony of Maid's managers. (Doc.377-Amended_Dec#3-Exh.:Pgs.1-81.) Judge Evans had the evidence before her, so she was obligated to know the facts. Judge Evans was subsequently advised by the Defendants that sworn affidavits from customers proved that the alleged proof of $100 in damages to "justify" the PI had been proven false, but Judge Evans did nothing. (Doc.174:Pg.31.)

40. On August 8, 2007, Judge Evans signed a Summary Judgment Order ("SJ Order"). (Doc.251.) As many as 210 of the 416 statements by Judge Evans are false or incorrect or are conclusions

based on false statements. (Doc.377-Amended_Dec#3-Exh.22:Pgs.1-184.) Judge Evans claimed in the SJ Order that she rejected the statements of fact presented by the parties, so she drafted the facts based on the evidence. (Doc.251:Pg.3.) Judge Evans invented facts and made statements that are proven to be false by the evidence. (Doc.377-Amended_Dec#3, Exh. 22.) The summary judgment was issued despite the fact that the central issue in the case was a FACT ISSUE that precluded the legal grant of a summary judgment.

41. On May 22, 2009 and December 22, 2009, Judge Evans ignored the law, used erroneous citations law, and broke the using orders. (See Appeal No. 09-13086-DD and 10-10139-A.)

42. Through February 15, 2010, I documented 575 instances of bias by Judge Evans. The bias started on March 29, 2006, and it continues today.

43. Judge Evans has done everything possible to favor the Plaintiffs and damage the Defendants.

44. DISQUALIFICATION IS JUSTIFIED BECAUSE JUDGE EVANS IS ACCUSED OF COMMITTING INTENTIONAL TORTS.

45. Judge Evans committed perjury in the PI Order on May 12, 2006 [Doc. 33], SJ Order on August 9, 2007 [Doc. 251], the Recusal Order on May 22, 2009 [Doc. 390], and the MEGA ORDER on

December 22, 2009. [Doc.723.] Judges do not have judicial authority to commit perjury.

46. Judge Evans has violated several criminal statutes and more. I have provided proof, and his affidavits have not been controverted; see Doc. 361 to 573. (See Doc.1 in Civil Action No. 1:09-CV-02027-WSD.)

47. The Eleventh Circuit has expressed appropriate concern for criminal violations by federal judges in ***United States v. Hastings***, 681 F.2d 706 (11th Cir. 07/12/1982).

48. Judge Evans ignored her judicial and ministerial duties in MIST-1 from May 22, 2009 to December 22, 2009. This is a violation of the Oath of Office, Code of Judicial Conduct, FRCP, the law, and my Constitutional rights, including First Amendment rights to petition the Government for a redress of grievances. 28 U.S.C. § 455 requires that judges recuse themselves sua sponte when appropriate, but Judge Evans has ignored this obligation.

49. A trial court has a ministerial duty to consider and rule on motions properly filed and pending before the court.

50. Judge Evans has violated Canon 3 B.(8) of the CJC. Judges shall dispose of all judicial matters fairly, promptly, and efficiently. Judge Evans has not demonstrated due regard for the rights of Windsor to be heard and to have issues

resolved without unnecessary cost or delay. This demonstrates bias.

51. JUDGE EVANS FAILED TO SCHEDULE AN EVIDENTIARY HEARING ON MYVERIFIED COMPLAINT OF PROFESSIONAL MISCONDUCT. She has abused discretion repeatedly.

52. I filed a Verified Complaint of Professional Misconduct on July 16, 2009 pursuant to N.D.Ga. Local Rule 83.1C and 83.1F. [Docket 474.] The Rules require action by the Court "upon receipt" and mandate a hearing. Judge Evans did not act until December 22, 2009 and never scheduled the mandatory hearing.

53. Judge Evans was named for professional misconduct in the Complaint, yet she failed to recuse herself and instead ruled that she had not committed misconduct. This is egregious misconduct.

54. I filed 20 motions for evidentiary hearings in 2009, and Judge Evans never scheduled any hearings. [See for example Doc. 395, 398, 402, 408, 414, 466, 474, 488, 513, 565.] I was never granted an evidentiary hearing or a conference at any time in four years in MIST-1. This violated my due process right to be heard. This violated Canon 3 B.(7) of the CJC.

55. In consideration of the issues raised by me, Judge Evans' refusal to schedule an evidentiary hearing is clear violation. This demonstrates bias.

56. JUDGE EVANS IMPROPERLY REJECTED MY UNCONTROVERTED AFFIDAVITS WITH COMPLAINTS OF PERJURY, SUBORNATION OF PERJURY, AND OTHER WRONGDOING WITHOUT TAKING ANY ACTION. JUDGE EVANS VIOLATED DUE PROCESS OF LAW.

57. To obtain orders and a judgment by the use of testimony known to be perjured offends due process. Judge Evans knows that the testimony of the witnesses for Plaintiffs was false. Deprivation of a hearing under these circumstances is a denial of due process of law.

58. I filed motions with uncontroverted declarations alleging perjury, subornation of perjury, obstruction of justice, Rule 11 violations, and much more. The declarations provided undeniable proof through documents and the testimony of Maid's witnesses to prove Maid's false sworn statements. Judge Evans rejected or ignored the motions and the declarations sworn under penalty of perjury before a notary when my facts were the only facts before the court.

59. My Constitutional rights have been violated by Judge Evans.

60. These violations were detailed in my Emergency Motion for Relief from Violation of Constitutional Rights [Doc. 571], and the violations continue. Judge Evans issued an injunction on

December 22, 2009 without the required notice and hearing.

61. In this civil action, there is no way that Judge Evans has been or could be impartial.

62. Judge Evans ignored documentation of criminal violations, fraud, perjury, subornation of perjury, and other wrongs. Judge Evans had a ministerial duty to assure me a fair and impartial hearing and to ensure that his Constitutional rights, laws, and rules are not violated.

63. Judge Evans ignored all of the crimes.

64. JUDGE EVANS FAILED TO REPORT ATTORNEY MISCONDUCT.

65. Judge Evans has violated many Canons of the Code of Judicial Conduct ("CJC"). I have a legal right to expect a judge to adhere to these Canons.

66. Judge Evans was provided with uncontroverted proof that Maid's attorneys committed numerous violations of the State Bar of Georgia Rules of Professional Conduct. As the proof was clear, documented, and uncontroverted, Judge Evans had a ministerial duty to report this pursuant to Canon 3 D. (2) of the CJC, and she failed to do so.

67. JUDGE EVANS FAILED TO TAKE ACTION ON COMPLAINTS OF FRAUD UPON THE COURTS.

68. Judge Evans has a legal obligation to set aside the judgment for fraud upon the courts. I provided uncontroverted proof. Maid had every opportunity to dispute my proof, and they did not.

69. As the proof of fraud upon the courts is documented, proven, and uncontroverted, Judge Evans had a ministerial duty to set aside the judgment.

70. Judge Evans has violated many Canons of the CJC. I have a legal right to expect Judge Evans to adhere to these Canons. This is just as important as a judge's right to expect citizens to adhere to laws. Judge Evans has committed numerous violations of the following: **Canon** 1 -- Judges shall uphold the integrity and independence of the judiciary. No favoritism; **Canon** 2 -- Judges shall avoid impropriety and the appearance of impropriety; **Canon** 3 -- Judges shall perform the duties of their office impartially and diligently; **Canon 3 B.(2)** -- Judges shall be faithful to the law; **Canon 3 B.(5)** -- Judges shall perform judicial duties without bias; **Canon 3 B.(7)** -- Judges shall accord to every person the right to be heard according to law. The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed; **Canon 3 B.(8)** -- Judges shall dispose of all judicial matters fairly, promptly, and efficiently; **Canon 3 D.** (1) -- Judges who receive information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action; **Canon 3 D.** (2) -- Judges who

receive information indicating a substantial likelihood that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia should take appropriate action. Judges having knowledge that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority; **Canon 3 E. (1)** -- Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned.

71. JUDGE EVANS FAILED TO RECUSE HERSELF AS REQUIRED BY LAW.

72. Judge Evans has appeared biased and has lacked impartiality. This affidavit states the facts and reasons.

73. Judge Evans has violated my most basic Constitutional right – the right to an impartial and fair judge. All of her actions and inactions throughout MIST-1 show a bias for the Plaintiffs and against me. The uncontroverted record proves this. Perhaps even more telling is the proof of the wrongdoing of Plaintiffs and their attorneys. Judge Evans has ignored this, and this indicates bias.

74. Under the circumstances, recusal is the only remedy that will restore impartiality to the litigants in the judicial process and secure the relief that I deserve.

75. As required by 28 U.S.C. § 144, I

provided an affidavit of prejudice (Exhibit A to Defendant William M. Windsor's Motion to Recuse Judge Evans – Doc. 361.) This details bias in 92 pages and 361 paragraphs. The certificate of good faith is part of Doc.362. Judge Evans ignored it.

76. Proof of bias/misconduct is also detailed in Doc's 361, 406, 470), 462 and in MIST-2 Doc 1, incorporated herein.

77. Judge Evans failed to properly consider the first motion for recusal under 28 U.S.C. § 144 and 28 U.S.C. § 455.

78. The Recusal Order says: "Windsor's affidavit gives no foundation for this contention other than that he felt that Judge Evans' rulings are unfair." (Doc.390-Pg.5,Footnote-2.) This is outrageously false. I have shown pervasive bias and dishonesty by Judge Evans, including approximately 200 false statements in the PI Order and SJ Order, withholding evidence, obstruction of justice, fraud upon the courts, and violations of due process. Dec#2 (Doc.361) provides 92 pages and 361 paragraphs of meritorious reasons. Amended Dec#3 (Doc.377) contains 28 exhibits with 2,410 pages of sworn testimony that are detailed analysis with citations showing that Judge Evans made as many as 200 false statements in the PI Order and SJ Order. Dec#6 (Doc.385) provides a long list of reasons as does Doc.462. The first Motion to Recuse listed 13 categories of reasons. (Doc.361-Dec#2:¶¶9-91.) I have provided uncontroverted proof of false statements in orders. This is proof that Judge

Evans' rulings were wrong and that there was perjury.

79. The Recusal Order claims bias must be extra-judicial. (Doc.390: Pg.5, Footnote-2.) Judge Evans did discriminate against me as a pro se party and a male. (Doc. 361 ¶84-85; Doc. 406 ¶27-31.) However, the distinction of whether actions or comments are categorized as "extra-judicial" is not the determining factor in recusal. The Supreme Court made it clear in 1994 that the source of the impartiality of the court need not necessarily stem from an extra-judicial source.

80. Judge Evans did not apply the proper standard when considering previous motions to recuse.

81. My declarations state very clearly the facts and reasons for the belief that bias and prejudice exists and that there is an appearance of impartiality. Dates, times, places, circumstances, and statements are itemized in Dec#2 (Doc.361), Dec#7 (Doc.381), and the Bias-Aff (Exhibit A hereto). (See also Doc.406 ¶21-25 and Exhibit A thereto; and Doc.470.)

82. Judge Evans erred by failing to consider that the cumulative effect of the facts presented would be grounds for recusal. This is a case of pervasive bias. Judge Evans established a position that the Defendants were wrong and that their case didn't matter. (Doc.381-Dec#7:Pgs.13-14; Doc. 406 ¶40-55.) When all of the evidence is considered, this is absolutely a case for recusal.

83. Judge Evans erred by improper consideration of recusal under 28 U.S.C. § 144. The affidavit in support of 28 U.S.C. § 144 must state the facts and reasons for the belief that bias and prejudice exist. The reasons must be material and stated with particularity. I met this requirement.

84. The allegations of the certified affidavit were supposed to be accepted as true, and Judge Evans was supposed to act in accordance with the mandate of 28 U.S.C. 144 and recuse herself.

85. I complied with the statutory procedure. Judge Evans erred by claiming that a pro se party was required to file a Certificate of "counsel of record." The Recusal Order says: "Windsor has failed to file any certificate of counsel of record." (Doc.390-Pg.6:15-16.)

86. I am pro se, so there is no "counsel of record." (Doc.381-Dec#7:¶5.) ***Stine v. United States***, No. V-06-21 (S.D.Tex. 11/07/2008) cites 13 cases, including one federal appellate court decision, stating that a pro se litigant may file the certificate of good faith, signed by himself, indicating that his motion and affidavit are filed in good faith. I did just that.

87. I am entitled, under the Constitution and its amendments, the decisions of the U.S. Supreme Court and other federal courts of appeal, and the laws of Congress, to an impartial and fair judge. Judge Evans has violated my rights guaranteed in the First, Fifth, Sixth, Eighth, Ninth,

and Fourteenth Amendments to the U.S. Constitution under color of law. I have been deprived of due process and equal protection under the law.

88. JUDGE EVANS IGNORED THE SECOND AND THIRD MOTIONS TO RECUSE.

89. The Second Motion to Recuse was filed after Judge Evans was served with a subpoena for a deposition as a fact witness in this case. The Third Motion to Recuse was filed after I filed a Verified Complaint of Professional Misconduct in MIST-1 charging Maid's attorneys and Judge Evans with gross misconduct. There is also a civil action against Judge Evans. [MIST-2.] Judge Evans ignored these motions when she had an obligation to act upon them.

90. JUDGE EVANS DEMONSTRATES AN APPEARANCE OF BIAS.

91. The March 8, 2010 "Show Cause Order" is a good example of the bias of Judge Evans, because the law and the case law is more than overwhelming to indicate that Plaintiffs' motions are in violation of Rule 11. In addition, Judge Evans has been rendering decisions on matters that affect he personally. For example, the Plaintiffs are claiming that the December 22, 2009 Order should block me from filing an independent action to set aside the December 22, 2009 Order pursuant to Rule 60(d). This would have Judge Evans ruling that I cannot file a legal action against her. This violates several Canons of the Code of Judicial Conduct, and it is one

of the most basic requirements of a judge. While I am enjoined from filing a motion to this effect, 28 U.S.C. § 455 includes several provisions, especially (b)(5)(iii) and (b)(5)(iv), that require Judge Evans' recusal. Case law requires that a judge sua sponte recuse herself in such situations.

92. There is a running, bitter controversy between Judge Evans and me.

93. A HEARING MUST BE GRANTED TO ALLOW ME TO PROVE BIAS, OR MY BASIC RIGHTS TO DUE PROCESS WILL BE FURTHER VIOLATED.

94. I must be granted a hearing so he can prove the bias of Judge Evans.

95. The rule of law, the most fundamental principles of morality, ethics, rights, fairness, and impartiality seem to mean nothing to Judge Evans. She twists the law, rules, and facts to accomplish personal desires and cover up the wrongs of fellow members of the Bar. Violations by Judge Evans are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2609-2682 of MIST-2 Doc. 1.

96. I have charged Maid's attorneys -- Hawkins & Parnell, Mr. Carl Hugo Anderson, Phillips Lytle, Marc W. Brown, and Mr. Arthur Russ; and Judge Orinda D. Evans with Professional Misconduct and fraud upon the courts. I have charged Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. ("Maid"), Christopher Glynn ("Glynn"), Timothy P. Ruddy

("Ruddy"), Robert J. Schul ("Schul"), Sandra Carlson ("Carlson"), and Judith L. Berry ("Berry") with perjury and many other charges in a conspiracy to commit fraud upon the courts. I have charged all with violations of the RICO Acts. Violations by Maid attorneys are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2584-2608 of MIST-2 Doc. 1. Violations by Maid and its managers are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2683-2691 of MIST-2 Doc. 1. The causes of action against the Defendants are listed in ¶¶ 2692-3018 in MIST-2 Doc. 33 (amendment to Doc. 1.) All of this is incorporated herein as if attached hereto.

97. The horrendous reality is that many people lie in court, and the judges, attorneys, courts, and governments do little or nothing about it. Perjury is a crime that is committed every day in every courtroom all across the country and goes unpunished. As a result, it is no wonder that parties, their attorneys, and judges feel they can lie hundreds of times in a case and get away with it. It is the responsibility of a court to brand these conspirators as liars and find these conspirators guilty of professional misconduct. If the courts would disbar all the cheaters, send all the liars to jail, and remove all of the dishonest judges, I believe we would see significant improvement in our legal system, far fewer cases, simpler cases, and the system would find the guilty to be guilty rather than reward the best liars and cheaters by finding them to be not guilty. Unfortunately, it seems to me that because such dishonesty is a regular practice of

judges, they ignore the dishonesty of parties and their attorneys.

98. Judge Evans seems to care less if attorneys and litigants commit massive perjury in her courtroom. She made more false statements than just about anyone in MIST-1. In my opinion, the truth seems meaningless to Judge Evans.

99. I ask this Court to consider why Maid, Maid's Attorneys, and Judge Evans have not filed a single affidavit to dispute my sworn declarations. I have filed thousands of pages of sworn testimony stating that they have committed perjury, subornation of perjury, and much more. If one were innocent of those accusations, it would be simple to sign a sworn affidavit and file it disputing each and every statement that I have made. No one has sworn to anything. I have certainly given them plenty of chances. I believe the reason for this should be obvious to this Court. Maid, Maid's Attorneys, and Judge Evans cannot sign sworn affidavits disputing what I have said, because what I have said is true, and much of it is proven through their own testimony. If they swear that what I have said is false, they commit more perjury and the clock starts ticking anew on the statute of limitations. If they admit that what I have said is true, they admit liability in MIST-2. I suspect that they will all plead the Fifth. If this Court would hold a hearing and require that Maid, Maid's Attorneys, and Judge Evans be present, I am confident that I can prove that what I have said is true. I ask this Court to have a hearing on this Petition. Surely this Court has the inherent power to hold a special hearing in

light of the exceptional circumstances. At the very least, this Court must order a new judge to conduct a full evidentiary hearing.

100. Judge Evans was presented with the evidence of all the wrongdoing, and she completely ignored it. This proves bias. Why would Judge Evans ignore such uncontroverted proof? The only reason I can think of is that she was bribed or she is trying to cover up her own misdeeds.

101. I have spent days itemizing a list of the various actions by Judge Evans that show bias. I have numbered each one. I have identified over 500 actions that show bias. This constitutes pervasive bias.

102. **BIAS #1** -- On August 25, 2005, Christopher Glynn ("Glynn") of Maid of the Mist Corporation and Maid of the Mist Steamboat Company Limited (jointly "Maid") signed a sworn affidavit in anticipation of the filing of a verified complaint in Georgia. I have sworn that 46 of the 50 sworn under penalty of perjury statements in the Affidavit of Glynn were false.[4] I have proven that 44 of the 46 sworn statements are false with the testimony of Glynn himself or with the testimony of his two managers, Mr. Timothy P. Ruddy ("Ruddy") and/or Mr. Robert J. Schul ("Schul"). Proof of the false statements is provided with citations to the record in paragraphs 898 to 1509 of Mist-1 Doc. 462 – Twenty-Fifth Declaration of William M. Windsor

[4] MIST-1, Doc. 378 -- Dec #5 ¶ 3.

("Dec #25"). The proof is overwhelming. Judge Evans completely ignored the proof. This proves much worse than bias. It indicates dishonesty by Judge Evans. There is no reasonable explanation for the fact that Judge Evans refused to consider the proven fact that the entire Verified Complaint was a false sworn pleading.

103. **BIAS #2** -- On August 29, 2005, Maid filed a civil action ("MIST-1") against Alcatraz Media, LLC, Alcatraz Media, Inc. (jointly "Alcatraz") and William M. Windsor ("Windsor" or the "Petitioner") (Alcatraz and Windsor jointly "A&W.") The action was filed in Gwinnett County Georgia Court with a verified complaint sworn by Glynn. It was removed to the United States District Court for the Northern District of Georgia ("N.D.Ga.") in March 2006 as Civil Action No. 1:06-CV-0714-ODE ("MIST-1"). The action was assigned to Judge Orinda D. Evans ("Judge Evans.") [5] Maid did not plead a cause of action and did not seek damages. Maid sought an injunction to stop Alcatraz and me from (allegedly) "selling vouchers to be redeemed at Maid for tickets for the Maid of the Mist boat ride." Maid sought litigation expenses under O.C.G.A. 13-6-11. The verified complaint in MIST-1 was a gigantic lie. This is a fact. This is uncontroverted as Maid has not filed a single solitary affidavit even attempting to dispute my sworn declarations and the citations to the record and other proof. Glynn committed as many as 92 counts of perjury with this one sworn verification and accompanying sworn affidavit. (See paragraphs 898 to 1509 and 1571 to 1599 in MIST-1 Doc. 462 for

[5] MIST-1 Doc. 1.

the proof of false statements with citations to the record.) The senior managers of Maid (Glynn, Ruddy, and Schul), have admitted under oath that much of what is in the verified complaint in MIST-1 is false. There is no question that the verified complaint in MIST-1 was a false sworn pleading that Maid and Maid's Attorneys knew was false. But Judge Evans refused to even allow Rule 11 violations and perjury to be discussed much less considered. This demonstrates bias.

104. **BIAS #3** - On October 12, 2005, Alcatraz and I filed a Verified Answer, and Alcatraz filed a Verified Counterclaim in Gwinnett County Georgia Court alleging violations of Georgia law and seeking litigation expenses under O.C.G.A. 13-6-11. I never filed a counterclaim as I had no claim since I am merely the father of the 75% owner of Alcatraz and did not have a business selling Maid tickets much less do anything that I was accused of. I signed the Verification stating that essentially the entire Verified Complaint was false. My Verification was 100% true. Judge Evans refused to accept that anything that I swore was true. Her position throughout MIST-1 has been that everything that I have said or written is false. Judge Evans' blind rejection of my sworn statements proves bias. I have never made a statement under oath that is false, and I will agree to a polygraph at any time.

105. **BIAS #4** -- On December 30, 2005, Glynn signed a sworn verification to Maid's Answers to A&W's First Interrogatories. Maid's answers contain at least two significant false sworn statements, and this has been proven by testimony

and documents obtained subsequently.[6] Glynn made false statements in the verification of the interrogatories. Maid filed totally inadequate answers to interrogatories. Maid never even provided the names or contact information for witnesses -- ever. 19 interrogatory questions were asked on November 29, 2005. Excluding objections, 26 sentences were provided in response to the 19 questions on December 30, 2005.[7] Details regarding the inadequacy of the responses exist in pleadings filed in MIST-1.[8] In comparison to the paltry interrogatory responses of Maid, Alcatraz and I each amended and updated our responses to Maid's interrogatories four times while providing detailed answers. The last responses totaled 192 pages for Alcatraz and about the same number for me.[9] I took a photograph of the interrogatory answers to show how much more Alcatraz and I provided.[10] Judge Evans defended the pathetic responses of Maid and denied our motion to compel Maid to provide proper answers. This proves bias. She made up her mind about the case without hearing or reviewing any of our evidence.

106. **BIAS #5** -- On December 30, 2005, Alcatraz and I received 138 pages of documents in response to the 33-item request for production of documents filed on November 29, 2005.[11] The 138

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[6] See paragraphs 1838 to 1892 in MIST-1 Doc. 462 for the proof of false statements with citations to the record.

[7] Exhibit #202 to Dec #5 – MIST-1 Doc. 378.

[8] Exhibit 304 to Dec #5 – MIST-1 Doc. 378.

[9] Exhibit 193 and 540 to Dec #5 – MIST-1 Doc. 378.

[10] Exhibit #374 to Dec #5 – MIST-1 Doc. 378.

[11] Exhibit #765 to Dec #11 and Exhibit #178 to Dec #5 – MIST-1 Doc. 378.

pages of documents produced included the 17 pages of documents from the 14 exhibits that were in the Verified Complaint. This initial document request on November 29, 2005 should have produced at least 1,000 multi-page documents, but Maid produced only 34 documents, and only 20 of those were new from the Verified Complaint. Most of the documents were emails from Alcatraz or me to Maid or Maid's Attorneys. Of the 20 new documents produced, there were only three documents produced that Alcatraz and I did not know about – contracts with Vacations Made Easy and Look Tours and a promotional brochure in a foreign language that was worthless to Alcatraz and me.[12] It should be clear that Maid withheld documents that should have been produced in this document production. Many items were never produced, and the only meaningful production came almost a year later when discovery was about to close. From my knowledge of the case, Maid did not produce documents that it was obligated to produce. Maid never produced documents that I knew they have had. Maid refused to produce documents that would have helped Alcatraz and me. I prepared a spreadsheet to track the production of documents. My analysis shows that there were 64 documents that I knew about that Maid never produced. From deposition testimony, I believe there are at least 300 others that were not produced.[13] Judge Evans denied our motion to compel Maid to produce documents. This shows bias.

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[12] Exhibit #178 to Dec #5 – MIST-1 Doc. 378.
[13] Exhibit #387 to Dec #5 – MIST-1 Doc. 378.

107. **BIAS #6** -- On March 28, 2006, MIST-1 was removed from Gwinnett County Court to the United States District Court Northern District of Georgia Atlanta Division ("N.D.Ga.") and was assigned to Judge Evans. The Verified Answer and Counterclaim directly disputed the statements of so-called "fact" in the verified complaint in MIST-1. Judge Evans had both the Verified Complaint and the Verified Answer and Counterclaim to review when she took the case. One side or the other had to have made false sworn statements. For no logical reason, Judge Evans sided with Maid. This indicates bias.

108. **BIAS #7** -- This biased position had to have come from "extrajudicial sources," because Judge Evans had not heard any testimony and had not seen any evidence other than two directly contradictory sworn statements and a new affidavit from Glynn. Judge Evans never changed this position of favoritism to Maid that she established on Day 1. This demonstrates bias.

109. **BIAS #8** – Judge Evans participated in ex parte communication with Maid's attorneys, and this was concealed from Alcatraz and me. On March 29, 2006, Maid Attorney Mr. Anderson began a series of ex parte communications with the Court. The Time Slips of Hawkins & Parnell show the following: "Telephone conference with Judge Evans' calendar clerk, Vicki, regarding temporary restraining order submission." [14] There were ex

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[14] Exhibit #1 to Dec #23 – MIST-1 Doc. 253-8, 253-15, 253-10.

parte communications with Judge Evans and her staff on April 3, 2006; April 4, 2006; April 14, 2006; June 16, 2006; October 23, 2006; November 24, 2006; November 28, 2006; December 4, 2006; January 22, 2007; February 14, 2007; February 15, 2007; February 16, 2007; February 26, 2007; March 2, 2007; March 7, 2007; and May 4, 2007. Concealing these ex part communications was wrong and shows bias.

110. **BIAS #9** -- On March 29, 2006, one day after the case was removed, Judge Evans issued a temporary restraining order stating this: "Maid filed the instant motion for temporary restraining order after discovering that Alcatraz's web site is offering for sale vouchers for Maid's tours for the 2006 season." Judge Evans wrote this in spite of the fact that it is totally false, and correspondence from A&W Attorney, Mr. G. Brian Raley ("Mr. Raley") to Maid's Attorney Mr. Carl Hugo Anderson ("Mr. Anderson") in February 2006 and filed with the court explained that Alcatraz was not selling vouchers to be redeemed by Maid. Alcatraz and I also filed a sworn affidavit from me stating that Alcatraz was selling actual tickets and not vouchers for Maid tours as Alcatraz had done in 2005. Judge Evans had obviously sided with Maid and established a bias against Alcatraz and me. And on March 29, 2006, Judge Evans signed an ORDER granting Maid's Motion for TRO.[15] "Pending further order of the Court, Defendant is hereby RESTRAINED from

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[15] MIST-1 Doc. 10 and Exhibit C to the Second Petition for Writ of Mandamus to Disqualify Judge Orinda D. Evans ("Second Pet. For Writ to DQ Judge Evans").

using Maid's names on web sites controlled, maintained or used by Defendants; from using images of Maid's boats and/or facilities on web sites controlled, maintained or used by Defendants; and from selling or attempting to sell vouchers for tickets for Maid's services. A hearing on Maid's motion for preliminary injunction (deemed included w/in the complaint) is scheduled for Tuesday, April 11 at 3:00 pm. Signed by Judge Orinda D. Evans on 3/29/06." Please note that in the Temporary Restraining Order,[16] Judge Evans also notes that it is the position of A&W that Maid entered into "a contract to allow Alcatraz to sell tickets throughout the entire 2005 season." (emphasis added). I swore to this in the Verified Answer; it was argued in the response to the motion for TRO; and it was recognized by Judge Evans...but Judge Evans refused to believe it throughout the case or recognize it as evidence at Summary Judgment ("SJ"). Judge Evans' own words in the Temporary Restraining Order (Exhibit C to the Second Pet. For Writ to DQ) were more than sufficient to defeat Maid's Motion for SJ, but Judge Evans did not let the facts get in the way of her dishonesty as she ignored her March 29, 2006 order when she issued a SJ Order in August 2007. This demonstrates overwhelming bias.

111. **BIAS #10** -- On April 4, 2006, Judge Evans ordered a bond after I filed a declaration stating that the losses to Alcatraz would be $360,000 in revenues per year and an estimated $50,000 in legal fees. Alcatraz and I requested a bond of

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[16] MIST-1 Doc. 10. and Exhibit C to the Second Pet. for Writ to DQ Judge Evans.

$400,000. Judge Evans ordered $5,000. This number proved to be 20-times too low.[17] Judge Evans' order stated: "Pursuant to Federal Rule of Civil Procedure 65(c), Plaintiffs are required to post a bond for costs and damages incurred by Defendants if they are found to have been wrongfully restrained." Judge Evans provided no explanation for why she awarded such a low bond. This demonstrates bias. The low amount conveyed a message that Judge Evans had already decided MIST-1 at this point just five days after she had been assigned to the case. If Judge Evans had ordered a bond for the damages that Alcatraz and I actually incurred, the bond should have been over $1,000,000. The bond that she gifted to Maid was 1.25% of the amount that Alcatraz and I requested. The bond represented a mere 0.05% of the legal expense damages. The requirement of this pocket change bond establishes that Judge Evans was not treating the parties impartially. The purpose of the bond was to indemnify Alcatraz and me against loss in case it is decided that the injunction should not have been granted. Judge Evans failed to provide the protection for Alcatraz and me that she was required to provide by law. This is a violation of equal protection. This shows significant bias.

112. **BIAS #11** -- Judge Evans had already rejected that there was an oral contract for the entire 2005 season without having seen a single witness or any evidence. Judge Evans had already decided that Maid would win the case. This position

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[17] MIST-1 Doc. 19 and 21, and Exhibits D and E to the Second Pet. For Writ to DQ Judge Evans.

was not based upon any evidence because my sworn affidavit was clear and unequivocal, and there was nothing in the record before the court to controvert my Verified Answer. In fact, Maid never even answered A&W's Answer and Counterclaim. Alcatraz proved without question various aspects of its counterclaim, but Judge Evans simply ignored it. This shows overwhelming bias.

113. **BIAS #12** -- On April 10, 2006, Alcatraz and I filed "DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO MAID'S UPDATED BRIEF IN SUPPORT OF THEIR MOTION FOR TEMPORARY RESTRAINING ORDER AND INTERLOCUTORY INJUNCTION" and a sworn declaration from me.[18] This completely contradicted the claims of Maid. My declaration was 100% true. Judge Evans ignored it. This shows bias.

114. **BIAS #13** -- On April 11 and 12, 2006, the Preliminary Injunction Hearing ("PI Hearing") was held. Evidence was presented. Judge Evans allowed a significant amount of hearsay for Maid during the PI Hearing. Judge Evans allowed Glynn to testify that nine people did not ride the boat and thus proved damages of approximately $100. But Glynn testified that he had never spoken with any customers or with any of the Maid employees who spoke with the customers. Glynn's testimony was hearsay. The rule against hearsay is aimed at prohibiting the use of a person's assertion, as equivalent to testimony to the fact asserted, unless the assertor is brought to testify in court where he

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[18] MIST-1 Doc. 24.

may be placed under oath and cross-examined. The person who wrote down on a sheet of paper that nine people "didn't purchase tickets" never testified to the writing much less what the writing showed. That was hearsay. Especially when I contacted the nine people and found that this was a false claim. The nine people did purchase tickets, and they have sworn to this under oath under penalty of perjury. Much of what Glynn testified to was hearsay since he was not involved directly with hardly anything. Judge Evans' actions at the hearing demonstrated bias.

115. **BIAS #14** -- According to the Federal Rules of Evidence ("FRE") Rule **602**. Lack of Personal Knowledge: "A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." On April 11, 2006, the only witness for Maid at the PI Hearing was Glynn, President of Maid. Glynn did not have personal knowledge of much that he testified about. Mr. Raley objected as to hearsay. Judge Evans repeatedly overruled that objection. The objections are shown beginning on page 13 of the transcript.[19] This shows bias.

116. **BIAS #15** -- The testimony of Glynn at the PI Hearing on April 11, 2006 contains at least thirty-five (35) instances of false sworn testimony or testimony that I believe is false or incorrect. I have compiled citations to the record to show that 24 of the 35 statements were subsequently proven false by

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[19] MIST-1 Doc. 35, 36, 37 -- Page 18, Pages 32 to 37.

the testimony of a Maid employee or by documents. These false sworn statements are detailed with citations to evidence in Exhibit #6 to Amended Dec #3 – MIST-1 Doc. 377. This is uncontroverted. Judge Evans refused to consider the proof of these false statements, and she refused to do anything about it. She issued orders falsely stating that there is no proof of wrongdoing, yet my proof of the wrongdoing is the sworn testimony of Maid's managers. This is worse than bias.

117. **BIAS #16** -- On April 11, 2006, a Log of Unaccepted Alcatraz E-Tickets was presented as Exhibit 13-B at the PI Hearing. It represented approximately 894 customers. Mr. Raley argued that it was hearsay as Glynn had made none of the entries and had not spoken to any of the customers or the people who made the entries on the Log. Judge Evans ruled: "I'M GOING TO ADMIT MOST OF PLAINTIFF'S EXHIBIT 13-B. I DO BELIEVE THIS IS A BUSINESS RECORD. THE ONLY PART OF IT THAT GIVES ME A LITTLE BIT OF PAUSE IS THE ENTRIES ABOUT THINGS THAT VARIOUS CUSTOMERS SAID OR WHETHER THEY SEEMED TO BE MAD OR NOT. THAT MAY BE ADMISSIBLE AS A BUSINESS RECORD. BUT IT DOES APPEAR TO ME THAT DURING THE TIMEFRAME COVERED BY THIS RECORD THERE WAS – THERE WAS A BUSINESS DISPUTE BETWEEN THE PARTIES, AND, YOU KNOW, THE IDEA OF A BUSINESS RECORD IS YOU ARE MAKING ENTRIES OF SUCH A NATURE THAT THEY'RE APT TO BE RELIABLE. AND I DON'T SEE ANYTHING PERTAINING TO THE ENTRIES ABOUT WHICH E-TICKETS WERE

NOT ACCEPTED -- IT SEEMS TO ME THAT IS A VERY CONVENTIONAL BUSINESS FUNCTION. SO TO THE -- TO THAT EXTENT, I'LL ADMIT 13-B. AND I WILL JUST IGNORE THE ENTRIES IN THE EXHIBIT ABOUT WHETHER CUSTOMERS WERE ANGRY OR WHAT THEY SAID, THAT KIND OF THING." The "entries in the exhibit about whether customers were angry or what they said" was the "Comments" column of the exhibit. This shows bias.

118. **BIAS #17** -- Unfortunately, Judge Evans did the opposite of what she said. Judge Evans considered the "Comments" column when granting the Preliminary Injunction ("PI") and when granting a Summary Judgment ("SJ"). Maid never corrected the hearsay problem. There was never any admissible testimony from anyone directly involved with Maid's Exhibit 13B, yet it was used by Judge Evans as evidence of damages at PI and SJ.[20] This proves bias.

119. **BIAS #18** -- On April 11 and 12, 2006, it seemed to me that Judge Evans showed bias to Maid in the way she handled document submissions at the PI Hearing. Judge Evans allowed documents that were hearsay as to Glynn but denied an email that I had received directly from Carolyn Ballard Bazzo ("Bazzo").[21] This was improper and shows bias.

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[20] MIST-1 Doc. 35, 36, 37 -- Transcript of Preliminary Injunction Hearing.

[21] MIST-1 Doc. 35, 36, 37 -- Pages 32 to 37 and Pages 96 to 100.

120. **BIAS #19** -- On April 11 and 12, 2006, Judge Evans operated as if the PI Hearing was a trial on the merits, while Alcatraz and I did as defendants should do and simply dealt with the limited issues presented as the issues for the hearing. This showed bias.

121. **BIAS #20** -- On April 12, 2006, at the Preliminary Injunction Hearing, I explained Alcatraz's business and testified to how Alcatraz was going to get the tickets for its customers for the Maid. Judge Evans said it sounded "iffy." I was very precise in my testimony, and there was nothing "iffy" about it. Judge Evans said at the conclusion of the hearing: "THE PROBLEM I HAVE THOUGH IS I DO NOT SEE WHERE YOUR CLIENT HAS AN ASSURED SOURCE FOR THOSE TICKETS. AND THEREFORE, IF THEY SELL E-TICKETS OR VOUCHERS OR RESERVATIONS OR WHATEVER YOU WANT TO CALL THEM, THERE IS A GOOD CHANCE OR PRETTY GOOD CHANCE THAT THOSE PEOPLE ARE NOT GOING TO BE ABLE TO GET IN WHEN THEY GET UP TO NIAGARA FALLS." "THAT SOUNDED VERY IFFY TO ME." Glynn even testified that Alcatraz could do what I testified could be done.[22] But Judge Evans ignored this testimony as I believe she had made up her mind before she ever heard from Alcatraz, me, or Glynn, and she took a position that enabled her to maintain her bias and clearly fixed view about substantive pending trial matters.

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[22] MIST-1 Doc. 35, 36, 37 -- Page 63: 19-25, Page 64: 1-4.

122. **BIAS #21** -- On April 12, 2006, Judge Evans glared at me when I was on the witness stand when I made a comment about the legality of selling tickets. The look on her face showed me that she was very prejudiced against Alcatraz and me.

123. **BIAS #22** -- On April 12, 2006, at the PI Hearing, Judge Evans indicated she was inclined to grant the Preliminary Injunction even though Alcatraz and I prevailed on the causes of action presented at the hearing – trademark infringement and false advertising.[23] In the PI Order that followed on May 11, 2006, Judge Evans ruled that Maid failed on trademark infringement and false advertising.[24] Judge Evans said this:[25] "I WILL TELL YOU AT THIS POINT BASED ON THE EVIDENCE HEARD THAT I'M VERY MUCH INCLINED TO GRANT THE INJUNCTION REQUEST. BUT I WILL NOT FORMALLY DO THAT TODAY. AND I DO WANT TO CAUTION YOU. MR. RALEY MADE A GOOD POINT ABOUT THE ABSENCE OF LEGAL THEORY IN THE COMPLAINT. THIS COURT IS A COURT OF LIMITED JURISDICTION. AND IF YOU WANT RELIEF FROM ME, YOU'VE GOT TO SPELL OUT WHAT FEDERAL STATUTE OR AVAILABLE STATE REMEDY IS -- YOU ARE RELYING ON AND EXACTLY IN WHAT RESPECT THE EVIDENCE MAKES OUT A PARTICULAR CAUSE OF ACTION UNDER ONE OF THESE STATUTES OR COMMON LAW REMEDIES. IF THAT IS NOT

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[23] MIST-1 Doc. 37, Page 166, Lines 4 to 8.
[24] MIST-1 Doc. 33.
[25] MIST-1 Doc. 37, Page 166, Lines 4 to 8.

DONE, I CANNOT GRANT AN INJUNCTION."[26] I don't understand this. According to what I have read, the issues for Preliminary Injunction must be stated in the motion so the defendants can respond. Issues were presented by Maid. Alcatraz and I responded and prevailed. There was no valid legal basis for Judge Evans to allow a new cause of action to be presented after the hearing in an alleged "finding of facts" in a Proposed Order. Talk about a violation of Constitutional rights; this is it. No opportunity to present evidence. No opportunity to cross examine. No notice. NO DUE PROCESS. This demonstrates bias.

124. **BIAS #23** -- Maid NEVER amended their Verified Complaint to plead tortious interference or allege damages. According to Judge Evans, this was a requirement that Maid failed to do, but she let them get away with it. I studied the Federal Rules of Civil Procedure ("FRCP") on pleadings: "FRCP Rule 7. Pleadings Allowed; Form of Motions and Other Papers: (a) Pleadings. Only these pleadings are allowed: (1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer." In none of these seven identified pleadings did Maid ever plead tortious interference or damages, the claim that Judge Evans found for Maid at Summary Judgment. It seems to me that Judge Evans

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[26] MIST-1 Doc. 35, 36, 37 -- Transcript of Preliminary Injunction Hearing.

awarded relief on a cause of action that she was not allowed to consider based upon FRCP: "FRCP Rule 8. General Rules of Pleading: " (a) Claims for Relief. A pleading that states a claim for relief must contain: (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative or different types of relief." The complaint must allege all elements as set out by statute or case law. Maid never alleged all elements of tortious interference in any pleading. Judge Evans let Maid get away with it. This shows bias.

125. **BIAS #24** -- Furthermore, Maid never alleged any cause of action relative to me personally. Maid never amended its pleadings: "Rule 15. Amended and Supplemental Pleadings: (a) Amendments Before Trial. (1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course: (A) before being served with a responsive pleading; or (B) within 20 days after serving the pleading if a responsive pleading is not allowed and the action is not yet on the trial calendar. (2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Maid never sought the permission of Alcatraz and me to amend their pleadings, and Maid never sought the leave of the court to amend their pleadings. Unless I am missing something, there

was no legal basis for a finding of tortious interference because that cause of action was never pled. Damages were never pled. But Judge Evans found tortious interference, claimed there were damages, and ignored the facts. This demonstrates bias.

126. **BIAS #25** -- The only relief asked for in Maid's pleadings was that Alcatraz and I be enjoined from selling vouchers to be redeemed by Maid for tickets. Alcatraz and I were not selling vouchers to be redeemed by Maid for tickets, so Maid had that "relief" from the day they filed their lawsuit. Mr. Raley told Mr. Anderson that Alcatraz would not sell vouchers again since the oral contract expired in October 2005. Judge Evans gave Maid an injunction that provided relief that they did not even request in their Verified Complaint. It was much more far-reaching. It seems to me that it was illegal for Judge Evans to award relief that was not requested. Judge Evans showed bias.

127. **BIAS #26** -- On April 19, 2006, Maid submitted their so-called "Findings of Fact" and their Proposed Order Granting Preliminary Injunction.[27] The Proposed Order raised tortious interference as a claim for the first time. Tortious interference was never discussed prior to or at the PI Hearing. The verified complaint in MIST-1 was never amended to include tortious interference. On April 26, 2006, Alcatraz and I responded with objections to Maid's Proposed Order Granting

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[27] MIST-1 Doc. 27.

Preliminary Injunction.[28] Alcatraz and I stated that practically all of the Proposed Order's twelve pages of findings of fact in the Proposed Order Granting Preliminary Injunction[29] ("Proposed Order") fell into one of four categories: " (1) false; (2) inaccurate; (3) evidence not before the Court; or (4) irrelevant to the newly-asserted claims that formed the alleged basis for Maid's application for injunctive relief. The remaining 11 pages of the Proposed Order similarly contain false statements, facts not before the Court, inaccuracies, and more. Judge Evans ignored our attorney. This shows bias.

128. **BIAS #27** -- I have identified as many as 164 statements in the Proposed Order[30] that are false, incorrect, or omit important information or that I believe are false or incorrect. This is addressed on pages 1050 to 1688 of Dec #25 – MIST-1 Doc. 462. Subsequent testimony of Maid's managers, documents, and the fact that most of these statements are not anywhere in the record before the court proves that 158 of the 164 statements in the Proposed Order are false.[31] Judge Evans ignored this proof and repeatedly made broad orders that Maid's attorneys did nothing wrong. This proves bias.

129. **BIAS #28** -- On May 2, 2006, an Affidavit was signed by Timothy P. Ruddy ("Ruddy").[32] There was one (1) False Sworn

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[28] MIST-1 Doc. 28.
[29] MIST-1 Doc. 27.
[30] MIST-1 Doc. 27.
[31] See MIST-1 Doc. 377, Exhibit 7.
[32] MIST-1 Doc. 29.

Statement in the Sworn Affidavit of Timothy P. Ruddy dated May 2, 2006. This is proven on pages 1042 to 1050 of Dec #25 – MIST-1 Doc. 462. Judge Evans used this false statement improperly. This shows bias.

130. **BIAS #29** -- On May 3, 2006, Maid filed a Corrected Proposed Order Granting Preliminary Injunction ("Corrected Proposed Order").[33] Maid's Attorney made false statements in the Corrected Proposed Order.[34] The correction was to change one statement in the Proposed Order based upon a May 2, 2006 Affidavit of Timothy P. Ruddy ("Ruddy"). The false statements in the Corrected Proposed Order are detailed with citations to evidence in Exhibit #7 to Amended Dec #3 – MIST-1 Doc. 377. This is addressed on pages 1050 to 1688 of Dec #25 – MIST-1 Doc. 462. The false statements in the Ruddy Affidavit are detailed with citations to evidence in Exhibit #8 to Amended Dec #3 – MIST-1 Doc. 377. On May 5, 2006, Alcatraz and I filed an objection to the Corrected Proposed Order.[35] Alcatraz and I objected to (1) Maid filing without leave of Court and (2) that the affidavit was filed well after the PI Hearing. Mr. Raley and I thought if Judge Evans pays any attention to the evidence before the Court, the FRE, and honors her own rulings, the Motion for PI would be quickly denied, but if Judge Evans was hopelessly biased, she would rule against Alcatraz and me. On May 12, 2006, Judge Evans proved to be hopelessly biased. On May 12, 2006, Judge Evans

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[33] MIST-1 Doc. 29

[34] MIST-1 Doc. 29.

[35] MIST-1 Doc. 31.

signed an Order Granting Preliminary Injunction against Alcatraz and me (the "PI Order") in MIST-1.[36] Judge Evans never questioned the so-called statements of fact that were nowhere to be found in the evidence before the Court and that were false, despite A&W's attorney's strong brief objecting to the Proposed Order. This shows bias.

131. **BIAS #30** – Judge Evans made false statements in the May 12, 2006 Order Granting Preliminary Injunction against Alcatraz and me. I have identified as many as 39 statements in the PI Order that are false, incorrect, or omit important information. 17 of the 39 statements are proven false by the testimony of a Maid employee or by documents. This is proven on pages 1688 to 1788 of Dec #25 – MIST-1 Doc. 462. The only explanation for these absolutely false statements in Judge Evans' PI Order is that she was totally biased for Maid and completely prejudiced against Alcatraz and me due to "extrajudicial factors" or corruption. There is no excuse for a federal judge to claim one fact after another that are absolutely This is false. This was not an isolated situation; this happened throughout MIST-1, and it continues today. The false statements by Judge Evans in the PI Order prove bias. The false statements in the PI Order are detailed with citations to evidence in Exhibit #9 Amended Dec #3 MIST-1 Doc. 377 and Doc. 462, Dec #25, ¶¶5167 to 5511. This has not been controverted.

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[36] MIST-1 Doc. 33, and Exhibit F to the Second Pet. for Writ to DQ Judge Evans.

132. **BIAS #31** - Preliminary Injunction Order Errors or Omissions #1 -- The Order Granting the Preliminary Injunction does not properly characterize the agreement between the companies. (Order Granting the Preliminary Injunction, P 3, third paragraph, last sentence). This shows bias.

133. **BIAS #32** - Preliminary Injunction Order Errors or Omissions #2 -- The Order Granting the Preliminary Injunction falsely presents Alcatraz's pricing. The false information regarding Alcatraz's pricing is in the Order Granting the Preliminary Injunction, P 3, fourth paragraph and P 4, first paragraph [Docket # 33]. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3011.) This shows bias.

134. **BIAS #33** – Preliminary Injunction Order Errors or Omissions #3 -- The Order Granting the Preliminary Injunction states in the second paragraph on page four: "Nowhere on Alcatraz's website did it state the price that Maid charged for tickets or the amount of the booking fee." While this is a partially factual statement, it is listed as a fact for the wrong reasons. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3023.) This shows bias.

135. **BIAS #34** – Preliminary Injunction Order Errors or Omissions #4 -- The Order Granting the Preliminary Injunction states in the second paragraph on page four: "...Alcatraz sold time-specific vouchers, despite Maid's first-come first-serve system." This is false as documents prove.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3030.) This shows bias.

136. **BIAS #35** – Preliminary Injunction Order Errors or Omissions #5 -- The Order Granting the Preliminary Injunction falsely presents Alcatraz's Terms and Conditions. The Order states in the fourth paragraph on page four: "The Terms and Conditions section was not visible on the page where customers purchase vouchers; rather it was contained in a link at the bottom of the website on which a customer must click to see it." This is false as proven by documents and uncontested testimony. (Docket # 35, 36, 37 -- Pr. Inj. Hearing, P 94: 1-6.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3040.) This shows bias.

137. **BIAS #36** – Preliminary Injunction Order Errors or Omissions #6 -- The Order Granting the Preliminary Injunction falsely alleges complaints by Maid customers: "The first paragraph of the Order states on page 5: "Maid began receiving customer complaints near the beginning of the 2005 season, which started in April." The record before the court proves this is false. This shows bias.

138. **BIAS #37** – Preliminary Injunction Order Errors or Omissions #7 -- The Order Granting Preliminary Injunction (Page 6 of last paragraph and Page 7, first paragraph) falsely characterizes what Alcatraz did in response to Sandra Carlson's letter of July 19, 2005. This shows bias.

139. **BIAS #38** – Preliminary Injunction Order Errors or Omissions #8 -- The Order Granting

Preliminary Injunction contains misleading information about the sequence of events in July 2005. This shows bias.

140. **BIAS #39** – Preliminary Injunction Order Errors or Omissions #9 -- The Order Granting Preliminary Injunction contains false information about information gathered by Maid, information that is not part of the evidence before the Court. (Page 7, fourth paragraph). This shows bias.

141. **BIAS #40** – Preliminary Injunction Order Errors or Omissions #10 -- The third and fourth sentences of the fourth paragraph on page 7 of the Order Granting Preliminary Injunction read: "Finally, Maid kept track of whether the customers whose vouchers were not honored thereafter purchased tickets from Maid. While most did, Maid documented nine adults who chose not to purchase tickets from Maid's box offices after Maid refused to honor their vouchers." This is false. There was no evidence of this, and the claim is totally false as proven by sworn affidavits. This shows bias.

142. **BIAS #41** – Preliminary Injunction Order Errors or Omissions #11 -- The Order Granting the Preliminary Injunction contains false information about the representation of prices by Alcatraz on its web sites. (Page 8, third paragraph). This states: "Alcatraz had changed its representation of prices by this time." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3091.) This shows bias.

143. **BIAS #42** – Preliminary Injunction Order Errors or Omissions #12 -- The Order Granting Preliminary Injunction claims Mr. Windsor testified that the contract he was referring to was Alcatraz's credit application and Maid's letter accepting the application. (Order Granting Preliminary Injunction, page 9, second paragraph) This is false as proven by the transcript of the PI Hearing. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3095.) This shows bias.

144. **BIAS #43** – Preliminary Injunction Order Errors or Omissions #13 -- The Order Granting the Preliminary Injunction contains false information about Vacations Made Easy and Look Tours. (Order, page 10, second paragraph.) Documents and Ruddy's Deposition prove this is false. This shows bias.

145. **BIAS #44** – Preliminary Injunction Order Errors or Omissions #14 -- The Order Granting the Preliminary Injunction contains false information and confusing information about the definition of the terms E-Ticket and Voucher. Judge Evans changed the definition to favor Maid. The record before the court proves that her definition is erroneous. This shows bias.

146. **BIAS #45** – Preliminary Injunction Order Errors or Omissions #15 -- The Order Granting Preliminary Injunction contains claims relative to the Affidavit of Timothy P. Ruddy that are false and inconsistent with the contents of the Order. Judge Evans violated her own order. (Docket # 33 -- Order Granting Preliminary

Injunction states (footnote on Page 12.) This proves bias.

147. **BIAS #46** – Preliminary Injunction Order Errors or Omissions #16 – Judge Evans recited incorrect facts in her commentary on False or Fraudulent Advertising and the conclusions drawn conflict with the way virtually every independent retail business in the country operates and in violation of the FTC Act, Clayton Act, and Robinson-Patman Act. This shows bias.

148. **BIAS #47** – Preliminary Injunction Order Errors or Omissions #17 -- The Order states: "Alcatraz used 'retail rate' to refer to its own retail rate, rather than to Maid's retail rate. This is clearly misleading." This can only be described as a position that makes no sense whatsoever. No one has to show the prices of another. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3147.) This shows bias.

149. **BIAS #48** – Preliminary Injunction Order Errors or Omissions #18 -- The Order states: "It was also misleading for Alcatraz to offer reservation times for customers buying vouchers, given that Maid operates on a first-come-first-served basis and does not honor reservations." (Docket # 33 -- Order Granting Preliminary Injunction, Page 14, second paragraph, last sentence.) This is simply false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3157.) This shows bias.

150. **BIAS #49** – Preliminary Injunction Order Errors or Omissions #19 – There are various

false or incorrect statements expressed in the Order Granting Preliminary Injunction relative to Intentional Interference with Business Relations as expressed on pages 14 through 22 of the Order. The last paragraph on page 14 of the Order states "...by selling vouchers after July 29, 2005, the date on which Maid revoked Alcatraz's authority to sell vouchers." This is false. This shows bias.

151. **BIAS #50** – Preliminary Injunction Order Errors or Omissions #20 -- The fourth paragraph on Page 16 of the Order Granting Preliminary Injunction states "After July 29, 2005, Alcatraz knew that it was not authorized to sell vouchers for Maid tickets and that its vouchers would not be honored." This is false. This shows bias.

152. **BIAS #51** – Preliminary Injunction Order Errors or Omissions #21 –The fourth paragraph, third sentence on page 16 of the Order states: "Despite this, Alcatraz continued to sell vouchers on its website (and later sold e-tickets for the 2006 season even before it had secured a source for Maid tickets)." This is false. Documents and the deposition testimony of Glynn, Ruddy, and Schul prove this is false. This shows bias.

153. **BIAS #52** – Preliminary Injunction Order Errors or Omissions #22 –The fourth paragraph on page 16 of the Order states: "Alcatraz continued to misrepresent the "retail rate" of Maid tickets despite being informed repeatedly of the problem such representation had caused." This is false. This shows bias.

154. **BIAS #53** – Preliminary Injunction Order Errors or Omissions #23 –The fourth paragraph on page 16 of the Order states: "Even when Alcatraz changed the pricing representation to "our rate," it still was deceptive with regard to the price of Maid tickets given the statements directly beneath that customers "save: $5.00." This is false. This shows bias.

155. **BIAS #54** – Preliminary Injunction Order Errors or Omissions #24 –The second paragraph on page 17 of the Order states: "Further, Mr. Windsor's e-mails demonstrate an intent to interfere with Maid's rights and to injure Maid." This paragraph goes on to say that Alcatraz took other actions just to 'get back' at Maid." This is false. This shows bias.

156. **BIAS #55** – Preliminary Injunction Order Errors or Omissions #25 –The last sentence on page 17 of the Order states: "Finally, while this action was pending, Mr. Windsor called Maid without identifying himself and asked about options for buying tickets other than personally going to Maid's box offices in an effort to trick Maid into supplying tickets that Alcatraz could use to redeem its e-tickets." This is false. This is outrageous. Judge Evans made this up.(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3224.) This shows bias.

157. **BIAS #56** – Preliminary Injunction Order Errors or Omissions #26 -- The first paragraph on page 18 of the Order states: "Alcatraz

sold vouchers knowing that they would not be honored. It was foreseeable that individuals who purchased vouchers and had them dishonored when they showed up for a boat ride would be angry at Maid for dishonoring them." This is false. This shows bias.

158. **BIAS #57** – Preliminary Injunction Order Errors or Omissions #27 -- The first paragraph, fifth sentence on page 18 of the Order states: "Of the 894 individuals whose vouchers Maid did not honor, nine adults refused to buy Maid tickets." This is false. There was no evidence of this at the PI Hearing, and the record before the court proves that this is false. This shows bias.

159. **BIAS #58** – Preliminary Injunction Order Errors or Omissions #28 -- The first paragraph, seventh sentence on page 18 of the Order states: "In addition, Alcatraz's extreme over-charging for e-tickets was likely to sour customers' experiences with Maid enough that they would not do business in the future...." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3241.) This shows bias.

160. **BIAS #59** – Preliminary Injunction Order Errors or Omissions #29 -- The first paragraph, eighth sentence on page 18 of the Order states: "Finally, Alcatraz created form letters for its customers to file complaints against Maid with the Better Business Bureaus and Attorney General of New York and Ontario (or at least Mr. Windsor claimed that Alcatraz had done so)." This is false. This never happened. There was no proof of this.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3249.) This proves bias.

161. **BIAS #60** – Preliminary Injunction Order Errors or Omissions #30 -- The second paragraph on page 18 of the Order states: "...the only documented financial injury is the loss of nine adult ticket sales from people who decided not to purchase tickets from Maid after Maid refused to accept vouchers they had purchased from Alcatraz after July 29, 2005." This statement is false. There was no evidence of this at the PI Hearing, and sworn affidavits prove this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3256.) This shows bias.

162. **BIAS #61** – Preliminary Injunction Order Errors or Omissions #31 -- The second paragraph on page 19 of the Order Granting Preliminary Injunction states: "...it was likely that they would have entered into business relations with Maid absent Alcatraz's conduct." This statement is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3262.) This shows bias.

163. **BIAS #62** – Preliminary Injunction Order Errors or Omissions #32 -- The third paragraph on page 19 of the Order states: "...to qualify for the defense of competition privilege, Alcatraz would have to show that it did not employ improper means." Alcatraz did nothing improper, so Alcatraz had no problem making this showing, but Judge Evans ignored my testimony. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3267.) This shows bias.

164. **BIAS #63** – Preliminary Injunction Order Errors or Omissions #33 -- The third paragraph on page 20 of the Order states: "Carolyn Ballard stated that Alcatraz made a profit of only 64 cents per voucher when it sold vouchers for $13.95." This is false and incomplete. This was clarified in testimony before the court. The only reason Judge Evans put this in her order was to slant the order for maid. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3270.) This shows bias.

165. **BIAS #64** – Preliminary Injunction Order Errors or Omissions #34 -- The last paragraph on page 21 of the Order states: "...Alcatraz's conduct, which has been shown to cause consumer confusion and complaints." There was no evidence of this before the court. Maid never produced any evidence, and Alcatraz and I produced overwhelming evidence. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 3274.) This shows bias.

166. **BIAS #65** – Preliminary Injunction Order Errors or Omissions #35 -- The Order Granting Preliminary Injunction makes no findings of fact or conclusions of law relative to William M. Windsor, yet the Order was issued against me and against legal entities that are not parties to this matter. Judge Evans did not find me liable for tortious interference at Summary Judgment either. This shows bias.

167. **BIAS #66** – Preliminary Injunction Order Errors or Omissions #36 -- The Order Granting Preliminary Injunction does not properly

describe the ticket buying process. (Order Granting the Preliminary Injunction, P 2, third paragraph). This shows bias.

168. **BIAS #67** – Preliminary Injunction Order Errors or Omissions #37 -- The Order Granting Preliminary Injunction does not properly describe the nature of the Alcatraz business. (Order Granting Preliminary Injunction Hearing, page 2, fourth paragraph). This shows bias.

169. **BIAS #68** – Preliminary Injunction Order Errors or Omissions #38 -- The Order Granting Preliminary Injunction does not properly describe the web sites used in Alcatraz's business. (Order Granting Preliminary Injunction Hearing, pages 2 and 3, footnote 3). This shows bias.

170. **BIAS #69** – Preliminary Injunction Order Errors or Omissions #39 -- The Order Granting Preliminary Injunction does not fully describe the relevant content of the letter from Midge Serrianne dated July 27, 2004. Judge Evans left out vitally important information to spin this in Maid's favor. (Order Granting Preliminary Injunction Hearing, page 3, second paragraph). This shows bias.

171. **BIAS #70** -- On May 12, 2006, in the PI Order, Judge Evans stated that I called Maid on April 12, 2006 to try to "trick" Maid. This was an outrageous statement for Judge Evans to make. This was never said at the PI Hearing. This was not even one of the false statements of fact presented by Maid in the Proposed Order or Corrected Proposed

Order. As I testified at the PI Hearing, I called Maid to prove a lie of Glynn. The only testimony on this issue EVER was from me. I believe this demonstrates clear bias against me, and the nature of the comment characterizing my actions as a "trick" was especially improper and prejudiced. There was absolutely no basis for such an attitude based on the testimony – MIST-1 Doc. 35, 36, 37 – P 143: 13-25, P 144: 1-12. Reasonable, honest people would read this testimony and feel that one who is supposed to be impartial who would call this a trick would have to be terribly biased against me.

172. **BIAS #71** – I feel the Preliminary Injunction was improperly issued because it was issued against me personally, and I had not personally done anything that was alleged. I did absolutely nothing, and I was never an officer, director, shareholder, investor, owner, or employee of Alcatraz, and I operated no business of the type claimed by Maid. Maid **never** presented a single piece of evidence or testimony to show that I was personally involved in any way. Ruddy testified that I was not personally involved and that the Verified Complaint was false. Judge Evans didn't care. This demonstrates a lack of impartiality by Judge Evans.

173. **BIAS #72** -- Judge Evans became a witness for Maid who regularly committed perjury. This shows bias.

174. **BIAS #73** – To obtain the TRO and Preliminary Injunction, Maid claimed the Alcatraz receipt of Elisabeth Ingoldsby, a Maid employee and daughter of the senior vice-president of Maid, was

actually a voucher for a ticket to be redeemed at Maid. Plaintiffs' Exhibit 1 at the Preliminary Injunction Hearing was presented as Ingoldsby's Voucher sold by Alcatraz and me to be redeemed at Maid in 2006. This was hogwash. I never ever sold a voucher or a ticket at any time. Alcatraz did not sell any vouchers to be redeemed at Maid in 2006. Glynn admitted on the witness stand that the document was not what he had sworn it was. In deposition testimony, Glynn, Timothy Ruddy, and Robert Schul all admitted that Alcatraz had not been selling vouchers to be redeemed for tickets at Maid. Judge Evans ignored the clear proof that the Preliminary Injunction claim was bogus. This proves bias.

175. **BIAS #74** – Glynn swore in the Verified Complaint that Alcatraz and I committed the criminal act of theft by "stealing from customers." This was a complete lie as Maid and Maid's attorneys knew. Accusing someone of theft under oath in a legal filing is serious business. Judge Evans ignored it and never did anything about it. This proves bias.

176. **BIAS #75** – Glynn swore in the Verified Complaint that Alcatraz and I committed the criminal act of bribery. This was a complete lie as Maid and Maid's attorneys knew. Accusing someone of theft under oath in a legal filing is serious business. Judge Evans ignored it and never did anything about it. This proves bias.

177. **BIAS #76** -- A review of the transcript from the PI Hearing[37] makes it clear that Alcatraz and I did not present our case at the hearing. Mr. Raley only presented what he thought was needed to defeat the claims of Maid. In my opinion, Judge Evans had sided with Maid, and for unknown extrajudicial reasons or corruption, she was totally biased against Alcatraz and me. I believe she simply looked for a way to "nail" Alcatraz and me, and she looked away and lied when the evidence showed the truth. Judge Evans was not impartial from the word go.

178. **BIAS #77** -- It isn't like Judge Evans made a few unfavorable rulings. Every order that she issued was false or completely unfair. Judge Evans' actions were as dishonest as they could have possibly been. This proves bias.

179. **BIAS #78** -- On May 12, 2006, Judge Evans, IN AN UNPRECEDENTED MOVE IN MIST-1, issued an order in favor of Alcatraz and me stating that the motion to allow a late-filed affidavit to be considered regarding the Preliminary Injunction was denied.[38] Yet in what proved to be a pattern for Judge Evans, she then QUOTED FROM THE AFFIDAVIT in the PI Order. The PI Order states (footnote on P 12): "...on May 3, 2006, Maid filed the Affidavit of Timothy P. Ruddy...." "Because Defendants do not have a chance to respond, the Court will not consider the late-filed documents. Defendants' Objection to Maid's Notice of Filing of

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[37] MIST-1 Doc. 35, 36, 37.

[38] Part of MIST-1 Doc. 33.

Affidavits of Timothy P. Ruddy is SUSTAINED." (MIST-1 Doc. 33 -- Order Granting Preliminary Injunction (footnote on Page 12.) Unfortunately, Judge Evans did not do as she ordered. Testimony that was made only in Ruddy's Affidavit is contained in the PI Order. The PI Order states: "Maid asserts that both of the other ticket brokerages charge the face value of the ticket (the price Maid charges), such that their booking fee is only the difference between the ticket price and the net adult rate for which the brokerage purchased it." There was no testimony from Glynn or anyone as to these alleged facts. These alleged facts are totally false as the record clearly shows. The subsequent deposition testimony of Ruddy proves this is false. (MIST-1 Doc. 90 and 132 -- Steamboat Depo, P 54, 55, 79, 88, 89, 91, 273, 274, 275, 276, 277, 278, 285, 291, 292, 294, 295, 296, 299, 300, 315, 316.) This shows bias.

180. **BIAS #79** -- The fact that Judge Evans violated her own PI Order to the detriment of Alcatraz and me is proof of her pervasive bias. On May 12, 2006, Judge Evans also considered testimony and proof from Maid in her PI Order that she said during the PI Hearing would not be considered. Judge Evans said the Comments section of Exhibit 13B would not be considered, but it was the only would-be proof of any damages, and Judge Evans ruled in the PI Order that the 9 adults that Exhibit 13B claims "didn't purchase tickets" was proof of the damages required under tortious interference. The inclusion of the Comments section of Exhibit 13B from the PI Hearing as proof for the PI Order demonstrates pervasive bias by Judge Evans as well as a violation of the FRCP and a

violation of the Judge's own order. Judge Evans periodically said and ordered things that seemed to favor Alcatraz and me slightly only to violate her own orders to the detriment of Alcatraz and me. She did this in her PI Order and in her SJ Order. This proves bias.

181. **BIAS #80** -- On May 12, 2006, Judge Evans included alleged facts in her PI Order in favor of Maid that were "facts" not presented by Maid, Alcatraz, or me. For example, she made up the "trick" accusation that she falsely accused I of. This demonstrates a lack of impartiality by Judge Evans.

182. **BIAS #81** -- Maid didn't even ask Judge Evans to enjoin Alcatraz and me from issuing actual tickets to customers, but that is the relief that Judge Evans granted in the PI Order. The motion for temporary restraining order requested this relief: "from selling or attempting to sell Vouchers for tickets for Maid's services."[39] But when Maid's attorney submitted the proposed order, Mr. Anderson submitted an order that enjoined Alcatraz and me from selling tickets, and Judge Evans signed it. I thought judges were supposed to rule on the law based upon what is presented to them. This proves bias.

183. **BIAS #82** -- On May 12, 2006, Judge Evans ordered a Preliminary Injunction based upon the after-the-hearing claim of tortious interference. Alcatraz and I were never given an opportunity to address the tortious interference issue in court. To

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[39] MIST-1 Doc. 6.

me, that's like doing a term paper in college, getting it back with rave reviews and A+ marked on it, only to have the professor contact you a few days later to say she was changing the grade to an F because she was inclined to dislike people like you with beards. It seemed improper and most unfair, especially because Maid had no testimony other than hearsay as to any damages, and the damages that they did claim were lies as Alcatraz and I were able to prove by obtaining declarations from the customers proving that what Maid said was false. This indicated bias and a lack of impartiality since Judge Evans had heard no testimony and had seen no evidence of Alcatraz's position on the lawsuit or the counterclaim of Alcatraz.

184. **BIAS #83** -- Judge Evans ignored the law in granting the PI and ignored the facts in allowing the injunction to remain in place. This shows bias.

185. **BIAS #84** -- Alcatraz and I lost all 41contested motions from 2005 through 2008. Every single motion. 0 for 41. The motions were proper, and at the very least, a significant number of them should have been won. This shows bias.

186. **BIAS #85** -- The Preliminary Injunction was improperly issued because it was issued against me personally, and I had not personally done anything that was alleged. In the verified complaint in MIST-1, Maid claimed that I personally did the things that Maid accused Alcatraz of doing. In the 30-b-6 deposition, Ruddy admitted that the Verified Complaint was totally false as to me. I was never an

officer, director, shareholder, investor, owner, or employee of Alcatraz, and I operated no business of the type claimed by Maid. Judge Evans didn't care. The fact that Judge Evans ignored that I should not have been included in the lawsuit demonstrates a total lack of impartiality by Judge Evans.

187. **BIAS #86** -- Judge Evans gave indication that she discriminated against me because I am a male. Judge Evans wanted to believe that I called a woman a bitch. I didn't, and Judy Berry ("Berry") finally admitted that in her deposition. But Mr. Anderson used her false claim to that effect against me every chance he could. I suspect that Mr. Anderson did this because the big law firms know that this is an extrajudicial bias that Judge Evans is known to have. One of the only explanations that I can come up with for the outlandish rulings of Judge Evans is that she was going to punish a man who was so rude and would call a woman a bitch. I tried to be a gentleman, and I haven't reported until recently what I believe Judy Berry called me when she left a voice mail on my home phone, but it made "bitch" seem polite in comparison. My wife, who was there at the time, says Judy Berry called me a "f---ing a--hole." When I took Judy Berry's deposition in Detroit, the court reporter commented, after Berry left in the middle of the deposition after she became worried about perjury, that she bet I was sorry I had decided against the video deposition. In my view, Judy Berry is about as nasty as a person can get. I believe a fair judge and jury would have found her dishonest and most objectionable. Judge Evans was so biased against me that I imagine she wouldn't have paid

any attention. I can imagine that Berry would have admitted various things didn't happen, and then Judge Evans would have ruled that they did. Judge Evans made completely unfair rulings throughout this case. This proves bias.

188. **BIAS #87** -- The PI was improperly issued because there was no tortious interference with Maid's customers. The only customers involved were Alcatraz customers. Judge Evans called these Maid's customers, but that is simply false. These customers all were Alcatraz customers. Alcatraz sent each of these customers to Maid. Alcatraz would have sold many of these customers another of its tours if Maid had not stolen Alcatraz's customers. The fact that Judge Evans considered Alcatraz's customers to be "Maid's customers" demonstrates a lack of impartiality by Judge Evans.

189. **BIAS #88** -- The PI was improperly issued because there were no damages to Maid. Damages are a requirement for tortious interference under the law, and there were none. Issuing the PI Order without proof of damages demonstrates a lack of impartiality by Judge Evans.

190. **BIAS #89** -- The PI Order misstated the findings that could be made by Judge Evans based upon the evidence presented. The PI Order misstated the standard under which Judge Evans considered this matter. The PI Order attempted to effectuate a consolidation of the Court's hearing on a request for preliminary injunctive relief with a trial on the merits of MIST-1. The PI Order sought to dispose of claims not even presented to Judge Evans.

The PI Order relied upon newly-asserted claims. This shows bias.

191. **BIAS #91** -- Judge Evans was subsequently advised that sworn affidavits from customers proved that the alleged damages to justify the injunction had been proven to be false, but she did nothing about it. This proves bias.

192. **BIAS #92** -- Maid's Attorneys abused the discovery process in many ways throughout 2006. Judge Evans refused to provide relief from the discovery abuse for Alcatraz and me. That Judge Evans refused to provide relief from the discovery abuse by Maid demonstrated bias.

193. **BIAS #93** -- It was November 8, 2006 before Alcatraz and I received many documents from Maid. Maid didn't produce what Alcatraz and I requested on November 29, 2005, and then they provided just some of what Alcatraz and I needed on November 8, 2006 and November 15, 2006 – close to a year late. There was still a great deal missing on November 15, 2006. Surprise documents were produced on December 5, 2006. These were documents that began appearing during the final deposition that Alcatraz and I were able to take from Maid. Maid supplemented with a few documents at the end of December 2006. Despite the strong objections of Alcatraz and me, Judge Evans closed discovery at the end of December 2006. Closing discovery at the end of December 2006 demonstrated bias.

194. **BIAS #94** -- Alcatraz and I had no

opportunity to pursue discovery prompted by these last-minute documents as the entire month of December 2006 was consumed with depositions and attempted depositions. Exhibit 6 to Dec #2[40] is a chart that I created to show how essentially all available time in 2006 was consumed and there was not enough time to conduct proper discovery. Judge Evans ignored this and denied needed discovery. This shows bias.

195. **BIAS #95** -- On November 15, 2006, Ruddy gave a 30(b)(6) deposition for Steamboat in Atlanta, Georgia. There were as many as one hundred thirty-nine (139) False Sworn Statements or statements that I believe are false in the testimony of Ruddy in his deposition.[41] I have compiled evidence to show that as many as 76 of these statements are proven false using the testimony of Maid's managers. The proof is set out on pages 1859 to 2042 of (Dec #25 – MIST-1 Doc. 462). Judge Evans refused to review the proof of the perjury by Ruddy, and she never did anything about it. This proves bias.

196. **BIAS #96** -- On December 4, 2006, Glynn gave a deposition in Atlanta, Georgia. There were as many as eighty-nine (89) False Sworn Statements or statements that I believe are false in the testimony of Glynn in his deposition.[42] I have compiled proof to show that as many as 46 of these statements are proven false using the testimony of

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[40] MIST-1 Doc. 361.
[41] MIST-1 Doc. 90 and 132.
[42] MIST-1 Doc. 159.

Maid's managers. The proof is set out on pages 2059 to 2192 of Dec #25 – MIST-1 Doc. 462. Judge Evans refused to review the proof of the perjury by Glynn, and she never did anything about it. This proves bias.

197. **BIAS #97** -- On December 4, 2006, Mr. Mendell conducted an ex parte communication with Judge Evans. The Time Slips of Hawkins & Parnell show the following: "Phone conference with Judge Evans' chambers regarding harassment at deposition, Rule 30(d) hearing on same." Alcatraz and I were never notified of this extremely improper conference. What did Mr. Mendell say to Judge Evans?[43] There was no harassment at any deposition. Neither Maid nor Judge Evans ever disclosed this ex parte communication to Alcatraz or me. The failure of Judge Evans to disclose this ex parte communication to Alcatraz and me is unethical, a violation of the Code of Judicial Conduct, and proof of bias.

198. **BIAS #98** -- On December 5, 2006, Schul gave deposition testimony.[44] There were as many as fifty-four (54) False Sworn Statements or statements that I believe are false in the testimony of Schul in his deposition.[45] I have compiled proof to show that as many as 24 of these statements are proven false using the testimony of Maid's managers. The proof is set out on pages 2192 to 2270 of Dec #25 – MIST-1 Doc. 462. Judge Evans

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[43] Exhibit #1 to Dec #23 – MIST-1 Doc. 253-8, 253-15, 253-10.
[44] MIST-1 Docket 133 and 160.
[45] MIST-1 Doc. 133 and 160.

refused to review the proof of the perjury by Schul, and she never did anything about it. This proves bias.

199. **BIAS #99** -- Tremendous discovery abuse took place by Maid in December 2006. Schul testified at his deposition that documents that had been provided to Maid's Attorneys had never been produced to Alcatraz and me by Maid. Some documents magically appeared toward the end of Schul's deposition that should have been produced in December 2005. Documents then appeared in Maid's Summary Judgment filing that were altered versions of the documents that had been produced to Alcatraz and me. Maid and Maid's Attorneys practiced every form of discovery abuse possible. Judge Evans ignored all of this.[46] That Judge Evans ignored Maid's discovery abuse proves bias.

200. **BIAS #100** – Maid of the Mist Corporation ("MOTM") failed to appear for the 30(b)(6) deposition when it was originally set, and I suspected they lied when they made an excuse. As a result, the 30(b)(6) deposition of MOTM was not taken until four months after discovery closed. This was very unfair! I was unable to attend the deposition, and was never afforded the opportunity to take the deposition that I noticed. The 30(b)(6) deposition of Steamboat was conducted by Alcatraz, and Mr. Raley took the full seven hours and was still not finished with his questions. As a result, Judge Evans denied me the opportunity to take deposition

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[46] MIST-1 Doc. 141 and Doc. 209, and Exhibits G and I to the Second Pet. for Writ to DQ Judge Evans.

testimony of either Plaintiff in MIST-1. This shows bias.

201. **BIAS #101** – Alcatraz and I had no opportunity to pursue discovery prompted by the last-minute documents produced by Maid. Many documents were never produced by Maid, though I know they had them. There is no telling what all Maid concealed that we didn't know about, but should have learned about. Judge Evans denied relief to Alcatraz and me from this abuse. This shows bias.

202. **BIAS #102** -- Judge Evans denied Alcatraz and me the time required to go through the Hague Convention to take the depositions of Maid's Canadian employees who were important to our case. Judge Evans completely ignored the fact that Maid refused to produce these witnesses for depositions after originally stating that the witnesses would be produced. This proves bias.

203. **BIAS #103** -- The limit of 10 depositions for all Defendants in MIST-1 denied due process for Alcatraz and me. In MIST-1, there were three Defendants, so each was given 3.33 depositions. In MIST-1, there were over 3,000 customers, at least 30 Maid employees who had relevant information, and others who would have had relevant information. These witnesses were scattered all over the country and around the world, so there was no way to get them to come to Atlanta for a trial. Alcatraz and I identified over 35 customers who reported slander and/or disparagement by Maid, yet Judge Evans did

not allow us to depose a single one of them. This proves bias.

204. **BIAS #104** -- When Alcatraz and I tried to compel Maid to provide more information, Judge Evans ruled that they had provided enough. This was truly outrageous, and is excellent proof of just how biased Judge Evans is.

205. **BIAS #105** -- On January 5, 2007, Judith L. Berry ("Berry") gave deposition testimony. Berry made as many as 113 statements that are false or that I believe are false in her deposition testimony. I have compiled proof to show that many of these statements are proven false. The proof is set out in paragraphs 1291 to 1710 in MIST-2 Doc. 1. Judge Evans refused to review the proof of the perjury by Berry, and she never did anything about it. This shows bias.

206. **BIAS #106** -- Berry signed two sworn affidavits that were improperly concealed by Maid that I saw for the first time at Berry's deposition. On November 27, 2006, Judith L. Berry ("Berry") signed a sworn affidavit.[47] I believe that there were as many as twelve (12) False Sworn Statements in the November 27, 2006 Sworn Affidavit of Berry. The proof is set out in paragraphs 1735 to 1790 in MIST-2 Doc. 1. Judge Evans refused to review the proof of the perjury by Berry, and she never did anything about it. This shows bias.

207. **BIAS #107** -- On December 20, 2006,

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[47] MIST-1 Doc. 230 – Berry Depo, Exhibit JB-18.

Berry signed a sworn affidavit.[48] I believe that there were as many as seven (7) False Sworn Statements in the December 20, 2006 Sworn Affidavit of Berry. The proof is set out in paragraphs 1802 to 1839 in MIST-2 Doc. 1. Judge Evans refused to review the proof of the perjury by Berry, and she never did anything about it. This shows bias.

208. **BIAS #108** -- On January 19, 2007, Judge Evans issued an Order[49] denying [MIST-1 Doc. 98] Motion for Leave to File Proposed Amended Answer and Counterclaims, denying [MIST-1 Doc. 63] Motion for Leave to Take More than 10 Depositions and for Extension of Time to Complete Discovery, granting [MIST-1 Doc. 96] Emergency Motion for Protective Order and to Quash Notices of 30(b)(6) Deposition, denying [MIST-1 Doc. 105] Motion for hearing, granting [MIST-1 Doc. 106] Emergency Motion for Protective Order and to Quash Notices of Deposition, denying [MIST-1 Doc. 118] Motion for Leave of Court to Extend Deposition, granting [MIST-1 Doc. 119] Motion for Protective Order and to Quash Notice of 30(b)(6) Deposition, denying [MIST-1 Doc. 122] Motion for Leave to Extend Deposition, dismissing as moot [MIST-1 Doc. 124] Motion to Strike. Hearing set for 2/2/07 11:00 AM in Chamber 1988 on the [MIST-1 Doc. 59] Motion to Compel Discovery Responses and Attorney Fees. Alcatraz and I had sought the assistance of Judge Evans on discovery problems, but she denied our motions. Denying our motions on basic,

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[48] MIST-1 Doc. 230 – Berry Depo, Exhibit JB-27.

[49] MIST-1 Doc. 141, and Exhibit G to the Second Pet. for Writ to DQ Judge Evans.

essential discovery issues shows bias. I was once again devastated by these rulings. Alcatraz and I lost eight motions and won just one -- a hearing on one discovery issue scheduled for February 2, 2007 that we ultimately lost on. The sheer numbers indicate that Judge Evans was not impartial. On January 19, 2007, Judge Evans completely compromised the position of Alcatraz and me by denying depositions. This shows bias.

209. **BIAS #109** -- On January 19, 2007, Judge Evans denied discovery needed by Alcatraz and me. On January 19, 2007, Judge Evans denied the ability of Alcatraz and me to take deposition testimony of any of the Maid employees directly involved with customers. This shows bias.

210. **BIAS #110** -- Judge Evans even denied Alcatraz and me the ability to even obtain the names of the employees that Alcatraz and I needed to depose. This shows bias.

211. **BIAS #111** -- On January 19, 2007, Judge Evans denied discovery requests that were essential to our defense and in support of Alcatraz's and my case. This shows bias.

212. **BIAS #112** -- I prepared a Chart showing Discovery Motions and Orders, and it is Exhibit 5 to Dec #2.[50] It shows that Alcatraz and I lost every discovery motion. Exhibit 6 to Dec #2 [51] is a chart showing how Alcatraz and I did not have

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[50] MIST-1 Doc. 361.
[51] MIST-1 Doc. 361.

sufficient time to obtain discovery. Judge Evans ignored this. This proves bias.

213. **BIAS #113** -- Judge Evans was unfair in denying Alcatraz's prompt request to amend its pleadings. Alcatraz had other very important claims to make against Maid that it established from discovery following a year of discovery abuse by Maid. Judge Evans allowed Maid to amend their pleadings (without formally doing so) all the way to summary judgment, but she denied Alcatraz and me. Allowing Maid to amend their pleadings demonstrates a lack of impartiality by Judge Evans. FRCP 15 says the court should freely give leave to amend when justice so required. Justice so required for Alcatraz and me, but I submit that Judge Evans showed once again that she was not at all concerned with anything but manifesting her bias for Maid – pervasive bias.

214. **BIAS #114** -- On January 19, 2007, the Court ordered Alcatraz and me to refrain from taking preservation of testimony depositions with customers. Then Judge Evans stated in the SJ Order that there were many customer complaints. There weren't many customer complaints, and Alcatraz and I could have proven this with depositions. Judge Evans denied discovery for Alcatraz and me because she had decided in favor of Maid at the TRO, so it was apparently a waste of her time to consider anything new. This shows bias.

215. **BIAS #115** -- In the Order dated January 19, 2007, Judge Evans said this was a "simple case." Calling MIST-1 a simple case clearly

indicates bias, a mindset against Alcatraz and me, and a clearly fixed view about substantive pending trial matters as MIST-1 was far from a simple case. Calling MIST-1 a simple case shows that Judge Evans completely disregarded Alcatraz's counterclaim before she ever saw or heard any evidence.[52] This proves bias.

216. **BIAS #116** -- On January 22, 2007, Maid filed its Statement of Undisputed Facts with its summary judgment motion.[53] On January 24, 2007, Maid filed a Corrected Brief in Support of their Motion for Summary Judgment and a Corrected Statement of Material Facts.[54] Maid made all kinds of mistakes in their summary judgment filing, so two days later, they tried to correct it. According to the FRCP, it was too late for Maid to amend its summary judgment filing. Judge Evans let Maid get away with a late amendment to its summary judgment filing. Letting Maid get away with this demonstrated bias.

217. **BIAS #117** -- Maid's attorneys made false statements in their Motion for Summary Judgment. Maid's Attorneys alleged "Statements of Undisputed Fact" in their Motion for Summary Judgment includes as many as 130 statements of 235 that I believe are false, incorrect, or improper.[55] Proof of the false statements is provided in paragraphs 2377 to 3037 of Dec #25 – MIST-1 Doc.

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[52] MIST-1 Doc. 141, Page 2.
[53] MIST-1 Doc. 148.
[54] MIST-1 Doc. 151.
[55] MIST-1 Doc. 147.

462. Judge Duffey ignored this and refused to do anything about it. This proves bias.

218. **BIAS #118** -- On January 22, 2007, Ruddy signed a sworn affidavit.[56] I believe that there were as many as six (6) False Sworn Statements in the Sworn Affidavit of Timothy P. Ruddy ("Ruddy").[57] Proof of false statements is provided in paragraphs 3037 to 3051 of Dec #25 – MIST-1 Doc. 462. Judge Duffey ignored this and refused to do anything about it. This shows bias.

219. **BIAS #119** -- On January 22, 2007 Sandra Carlson ("Carlson") signed a sworn affidavit.[58] I believe that there were as many as ten (10) False Sworn Statements in the Sworn Affidavit of Carlson.[59] Proof of false statements is provided in paragraphs 9345 to 9410 of Dec #25 – MIST-1 Doc. #462. Judge Duffey ignored this and refused to do anything about it. This shows bias.

220. **BIAS #120** -- On February 2, 2007, Judge Evans began a hearing in chambers by demonstrating that she had a clearly fixed view about substantive pending trial matters. Judge Evans said she was inclined to deny our motion to compel discovery because "my sense is that the issues in this case are pretty straightforward and that there already has been a good bit of discovery and that ya'll basically have what you need to defend

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[56] [MIST-1 Doc. 147.]
[57] MIST-1 Doc. 147.
[58] MIST-1 Doc. #147; MIST-1 Doc. #462 - Exhibit 3047 -- Affidavit of Sandra Carlson signed January 22, 2007.
[59] MIST-1 Doc. #147.

this case and prosecute your counterclaim." [60] Judge Evans' prejudgment on February 2, 2007 was outrageous. Judge Evans had no idea what discovery Alcatraz and I had obtained. Judge Evans' complete disregard for the position of Alcatraz and me in the case demonstrated pervasive bias.

221. **BIAS #121** -- Judge Evans also demonstrated in her comments on February 2, 2007 that she didn't even care enough about Alcatraz and me to understand the ownership and management structure of Alcatraz. She continually misstated this basic fact. This shows bias.

222. **BIAS #122** -- Judge Evans was also very derogatory and dismissive to me on February 2, 2007 proving that she chose to believe anything Maid presented to her. This demonstrates bias.

223. **BIAS #123** -- At the hearing on February 2, 2007, I presented Judge Evans with photographs that showed the document production as of November 1, 2006 from Alcatraz and me in comparison with what Maid had produced through the same point. The Alcatraz photo[61] shows a huge stack of boxes on a dolly, and the Maid photo[62] shows about an inch thick stack. The photos clearly demonstrated that Alcatraz and I had been obviously forthcoming with documents while Maid had withheld documents and produced little or nothing. Judge Evans said the photos were unfair. I wish I

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[60] Pages 2 and 3 – MIST-1 Doc. 174.

[61] Exhibit #21 to Dec #2 – MIST-1 Doc. 361.

[62] Exhibit 22 to Dec #2– MIST-1 Doc. 361.

had asked what was unfair. These were precise photos of the document production as of November 1, 2006 – two months before discovery was closed by Judge Evans. Rather than comment about the massive disparity, she says the photos that I took were unfair. This shows bias.

224. **BIAS #124** -- During the hearing on February 2, 2007, Judge Evans ruled that the Maid entities could not rely upon affidavit testimony submitted by witnesses that the Maid entities had failed to make available for deposition. These witnesses included, but were not limited to, ticket supervisors Vanik Aloian, Jim Lampman, Rose Devereaux and Holly Drouin, and Sandra Carlson and Gina Thomas. "HALLELUJAH," I thought. "We just won the lawsuit!" I should have known that Judge Evans would rule against Alcatraz and me on summary judgment claiming she wasn't using these affidavits while she was using them. This is exactly what happened. Judge Evans showed pervasive bias by ruling against Alcatraz and me on summary judgment claiming she wasn't using these affidavits while she was using them.

225. **BIAS #125** -- On February 2, 2007, I presented the issue of lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations to Judge Evans at the hearing in chambers. Judge Evans did nothing about the lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations communicated on February 2, 2007. I was shocked that I told Judge Evans that Maid had lied hundreds of times and she did nothing and didn't even seem to care. I told

Judge Evans that he had prepared documentation to prove the lies. I said: "I have itemized 430 individual instances of false sworn pleadings." Judge Evans said: "Well, we can't deal with that today. What I'm more interested in is the facts underlying the case." [63] The lies, false sworn pleadings, false sworn affidavits, false court testimony, and false deposition testimony are detailed in Amended Dec #3.[64] The attitude of Judge Evans on this essential issue of lies, false sworn pleadings, false sworn affidavits, false court testimony, and false deposition testimony demonstrates a lack of impartiality. This was a HUGE INDICATION OF BIAS. My Constitutional rights were ignored. A judge has no right to ignore the claim of anyone who says that a party has lied hundreds of times and has filed false sworn pleadings, false pleadings, improper pleadings, and more. Perjury and fraud upon the courts are issues that must be addressed whenever and wherever raised.

226. **BIAS #126** -- Judge Evans committed as many as 430 counts of Misprision of a Felony by ignoring my proof of perjury. Judge Evans' reaction to my proof of perjury demonstrated a prejudice against me as a pro se defendant. People are supposed to tell the truth in court. Unfortunately, more people seem to lie than tell the truth. The lies cannot often be proven. But in this case, I had organized the proof to show that most of the lies were proven to be lies by Maid's own testimony.

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[63] MIST-1 Doc. 174, Page 34, Lines 4-7.
[64] MIST-1 Doc. 377.

Judge Evans should have asked to see the proof or hear more about it. She should have asked questions. She should have asked Mr. Anderson to comment. She could have initiated a Rule 11 inquiry sua sponte. She ignored it. Even worse, she then blindly accepted the testimony of Maid as fact without ever questioning if the testimony was false. I don't know how much more proof could possibly be needed to show that my Constitutional and Civil Rights were violated and that Judge Evans demonstrated the worst form of bias.

227. **BIAS #127** -- Judge Evans openly allowed Maid to lie and commit perjury, and she used that perjured testimony against Alcatraz and me as if it was true. She was on notice that it was false. In my opinion, Judge Evans' treatment of the perjury is proof of far more than bias. Judge Evans had a duty to the legal system and to Alcatraz and me. She ignored that duty. Alcatraz and I were badly injured as a result.

228. **BIAS #128** -- The most significant false pleadings, false sworn pleadings, and improper pleadings by Maid and Maid's Attorneys are the Verified Complaint and Sworn Affidavit of Christopher Glynn; Plaintiffs' Response to Defendants' First Interrogatories; Plaintiffs' Response to Defendants' First Request for Production of Documents; Plaintiff's Updated Brief in Support of Their Motion for Temporary Restraining Order and Interlocutory Injunction; Amendment to Plaintiff's Updated Brief in Support of Their Motion for Temporary Restraining Order and Interlocutory Injunction; Motion for Temporary

Restraining Order by Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd.; Plaintiff's Updated Brief in Support re Motion for Temporary Restraining Order; Plaintiffs' Notice of Filing of Proposed Order Entering Preliminary Injunction Against the Defendants; Notice of Filing of Corrected Proposed Order Granting Preliminary Injunction Against the Defendants; Notice of Filing of the Affidavit of Timothy P. Ruddy; Plaintiffs' various and sundry motions regarding depositions and discovery issues; Plaintiffs' Response to William M, Windsor's First Request for Production of Documents; Plaintiffs' Response to William M, Windsor's Second Request for Production of Documents; and various summary judgment filings. Judge Evans ignored all of this. This proves bias.

229. **BIAS #129** -- Judge Evans erroneously considered actions that I took personally to be the actions of the corporations. This shows bias.

230. **BIAS #130** -- In an attempt to minimize litigation costs, I chose to proceed pro se. Judge Evans did not seem to like that I was pro se. I felt that Judge Evans discriminated against me as a result of being pro se. This shows bias.

231. **BIAS #131** -- By February 2, 2007, the Verified Complaint still failed to state any cause of action or allege damages, and it was never amended. Judge Evans indicated at the hearing on February 2, 2007 that this was a problem. She said: "If you've never filed a pleading like an amendment to a complaint that sets forth a claim for damages, I would be disinclined to allow it to blossom forth on

the Motion for Summary Judgment." [65] The failure of Maid to file a pleading like an amendment to a complaint that sets forth a claim for damages seems like it should be a problem. Maid should have been required to state a cause of action and allege damages if they want to pursue a cause of action that requires damages. Alcatraz and I asked leave to amend our answer and Alcatraz's counterclaim in December 2006, and Judge Evans said we could not do so. So, Judge Evans said Alcatraz and I can't amend; she notes that Maid failed to state a cause of action or allege the damages required for tortious interference and states it cannot be pursued without amendment; but she then let Maid seek a summary judgment for tortious interference without amending, and she granted the summary judgment. So much for not letting things "blossom forth" at SJ. To a "reasonable person," the fact that Maid failed to state a cause of action or allege the damages required for tortious interference and Judge Evans stated such an action could not be pursued without amendment, and then she let Maid seek a summary judgment for tortious interference without amending, and she granted the summary judgment demonstrates a major lack of impartiality by Judge Evans.

232. **BIAS #132** -- Judge Evans did say several things during the February 2, 2007 hearing that gave Alcatraz and me hope. It sounded to me like there was no way Maid could prevail at summary judgment. I understood that the witnesses who Maid failed to produce for depositions would not

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[65] MIST-1 Doc. 174 – Pages 28-31.

be allowed to testify in affidavits or at trial. I felt that was only fair since Maid improperly abused discovery with witnesses. With testimony from only Glynn, Schul, and Ruddy, Maid would lose on tortious interference as there were no witnesses who had any customer contact. Maid would also have no one to lie about the slander, the contract for the 2005 season, and other key issues. Judge Evans reversed all of these positions when she issued a Summary Judgment. This proves bias.

233. **BIAS #133** -- I spent several months trying to set up preservation of testimony depositions with customers and others. Maid's attorney, Mr. Anderson, told me that he would fight every attempt to take these depositions in every district. I knew that would mean $12,000 or so per district, and I couldn't afford it. So, Mr. Raley and I filed a motion asking Judge Evans to order that Alcatraz and I could take those depositions. This issue of preservation of testimony depositions was raised at the February 2, 2007 hearing, and Judge Evans instructed Alcatraz and me to hold off until after summary judgment motions. The impact of this was that Alcatraz and I were denied the ability to ever obtain the customer depositions that are required to prove their case on slander, disparagement, breach of contract, and other claims, as well as defend themselves from Maid's claims.[66] Alcatraz and I obtained affidavits for over 700 customers that disprove such claims and prove our claims.[67] Refusing to allow Alcatraz and me to

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[66] MIST-1 Doc. 251 and 252.
[67] MIST-1 Doc. 368.

conduct these depositions and then ruling against us on issues that would have been disproven with the testimony proves bias.

234. **BIAS #134** -- Judge Evans indicated that Maid had the right to refuse to let Alcatraz buy and resell its tickets. Alcatraz had the right to sell **any** tickets lawfully obtained. Alcatraz and I were and are licensed ticket brokers in Georgia, which legally allows tickets to be purchased and resold. Judge Evans held to this misguided notion that Maid had the right to refuse to let Alcatraz buy and resell its tickets and ruled against Alcatraz and me on the basis of that belief with no legal justification. The injunction violates both state and federal law. The injunction should be voided. The injunction was an error of law. Applying it prospectively is no longer equitable. There were clearly erroneous factual findings, erroneous legal findings, and a manifest injustice.[68] The "first sale doctrine" gives Alcatraz and me the right to sell any tickets lawfully obtained. (See MIST-1 Doc. 362, Exh.15.)[69] The "first sale doctrine" provides: When a manufacturer **(MAID)** parts with his goods **(TICKETS)**, and they go upon the market, any third person **(DEFENDANT)** has the right to purchase and sell them as he pleases, without the consent of the manufacturer; and the courts will not aid the manufacturer, under the guise of protecting his trade-mark or the suppression of unfair competition. Furthermore, O.C.G.A. 43-4B provides that licensed ticket brokers,

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[68] MIST-1 Doc. 362-Dec#1:¶63; MIST-1 Doc. 377 - Amended_Dec#3: Exhs.8,22,23,24,25,26,27,28.

[69] MIST-1 Doc. 362-Dec#1:¶¶67-70; Docket 385-Dec#6:¶¶65-68.

such as Alcatraz and I, are licensed to sell tickets that we lawfully obtain without any permission of any type from the originator of the tickets.[70] The Georgia State legislature established this licensing system, and the Georgia Athletic and Entertainment Commission confirms Alcatraz's right and my right to sell any tickets lawfully obtained.[71] Maid has a registered trademark that I feel was obtained fraudulently. The use of a competitor's mark that does not cause confusion as to source is permissible. Alcatraz and Maid are not direct competitors. Both offer tickets, but Maid is the originator/sole supplier, and Alcatraz is a reseller and customer service provider. Maid offers only one boat ride. Alcatraz offers over 10,000 tours, shows, and activities from over 2,000 suppliers. There is no law that allows a company to block the sale of their products by another. In fact, the FTC Act, Clayton Act, and Robinson-Patman Act make such attempts illegal. The way companies try to block the sale of their products by another is with trademark claims. Trademark law makes it very clear that companies cannot block unauthorized sellers from selling genuine products. After the first sale, the brandholder's control is deemed exhausted [and d]own-the-line retailers are free to display and advertise the branded goods. Secondhand dealers may advertise the branded merchandise for resale in competition with the sales of the markholder. Under the first sale doctrine, resale by the first purchaser

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[70] MIST-1 Doc. 385-Dec#6:¶67.

[71] MIST-1 Doc. 378-Dec#5: ¶¶8921,8924,8928; MIST-1 Doc. 377-Amended_Dec#3,Exh.22;MIST-1 Doc. 462-Dec#25: ¶¶1252,1970,2274,7907,8891.

of the original article under the producer's trademark is generally neither trademark infringement nor unfair competition. The rationale behind the rule is that trademark law is designed to prevent sellers from confusing or deceiving consumers about the origin or make of a product, which confusion ordinarily does not exist when a genuine article bearing a true mark is sold. It is universally accepted that anyone may buy and resell tickets without infringing on trademarks or copyrights. I have extensive proof that anyone may buy and resell tickets without infringing on trademarks or copyrights. An article in the New York Times has recently discussed the legality of ticket sales by ticket brokers.[72] Judge Evans blatantly ignored the law, and this proves bias.

235. **BIAS #135** -- Alcatraz is licensed by the Georgia Athletic and Entertainment Commission, the authority that regulates ticket brokers for the State of Georgia. Alcatraz's license number is TKBK00007. My number is TKBK00017.[73] Alcatraz and I have been licensed since 2006. No licensed ticket broker in Georgia owns the trademarks for the tickets it sells.[74] Judge Evans ignored that Alcatraz and I are licensed ticket broker in the state of Georgia and that the state licenses ticket brokers to be able to resell any ticket without infringing on trademarks or copyrights and without violating scalping laws. The injunction issued by Judge Evans against Alcatraz and me is a violation of Georgia

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[72] Dec #76 Exhibit L – MIST-1 Doc. 547.
[73] Dec #76 Exhibit M – MIST-1 Doc. 547.
[74] Dec #76 Exhibit N – MIST-1 Doc. 547.

law. Judge Evans has enjoined Alcatraz and me from a business that we have been specifically licensed by the state of Georgia to operate. As Judge Evans had no jurisdiction to enjoin Alcatraz and me from a business that we have been specifically licensed by the state of Georgia to operate, this injunction should be void. Ignoring that Alcatraz and I are licensed ticket broker in the state of Georgia and that the state licenses ticket brokers to be able to resell any ticket without infringing on trademarks or copyrights and without violating scalping laws demonstrates bias, and it is a violation of the Constitution and its amendments. This proves bias.

236. **BIAS #136** – Case law indicates that the injunction by Judge Evans is an abuse of police power, violates the guaranties of the Bill of Rights and the Fourteenth Amendment to the Constitution. This proves bias.

237. **BIAS #137** -- Judge Evans was critical of Alcatraz regarding an alleged "failure to disclose the difference between Maid's price and Alcatraz's price." Judge Evans was wrong. As a general matter of federal law, retailers are under no obligation to disclose their pricing structure to consumers. Variable pricing is the norm in many industries. Airlines frequently charge different groups of consumers different rates for the same seat, hotels often charge different rates to different consumers for the same room, and car dealerships sell identical vehicles for a variety of prices, depending upon the identity (and savvy) of the consumer. There are a number of legitimate business

reasons for doing this. It seems that Maid was in violation of both the Clayton Anti-Trust Act and the Robinson-Patman Act. Price fixing is illegal. The Clayton Anti-Trust Act prohibits price discrimination between different purchasers if such a discrimination substantially lessens competition or tends to create a monopoly in any line of commerce (Act Section 2, codified at 15 U.S.C. § 13); if not for this particular concept, the Government would have to intervene in the fixing of prices which was to be avoided because of its comparison to a socialism state. The Robinson-Patman Act requires sellers of any product to offer the same terms to all competitive customers. Judge Evans ignored federal law in claiming that Maid could fix prices and offer different terms to competitive customers. Ignoring federal law in claiming that Maid could fix prices and offer different terms to competitive customers demonstrates a lack of impartiality by Judge Evans.

238. **BIAS #138** -- Judge Evans asked me at the hearing in chambers on February 2, 2007 how Alcatraz felt it had the right to sell tickets. For starters, Alcatraz was granted the right to sell tickets "on credit" by Maid in a written contract. Then there was an oral contract for the 2005 season that Alcatraz obtained because of concerns over strange behavior by Maid. It is also clearly established that anyone can sell a ticket for any event or attraction without the authorization of the event or attraction. Tens of millions of tickets are sold each year by ticket brokers and individuals online, on eBay, in the newspaper, etc. So, Alcatraz did not need any authorization from Maid to sell its tickets. In addition, travel agents and other types of

reservations services sell tickets and handle reservations for their clients without any agent relationship with the events, attractions, or services. Judge Evans ignored all of this. This proves bias.

239. **BIAS #139** -- On February 15, 2007, Maid filed its answer to Defendants' Joint Motion for Summary Judgment. Maid filed this late without leave of court. According to FRCP Rule 60, the late response to Defendants' Joint Motion for Summary Judgment should not have been allowed. Alcatraz and I should have been granted summary judgment against Maid's claim of tortious interference. Judge Evans let Maid get away with the late response. Letting Maid get away with this proves bias.

240. **BIAS #140** -- In March 2007, there was a lot of ex parte communication by Maid's Attorneys. With all of this ex parte communication, Judge Evans should have notified Alcatraz and me. Judge Evans did not advise Alcatraz and me. That Judge Evans did not advise us of the ex parte communication by Maid's Attorneys is a violation of the Code of Judicial Conduct. That Judge Evans did not advise A&W of the ex parte communication by Maid's Attorneys proves bias.

241. **BIAS #141** -- Judge Evans concealed relevant information from Alcatraz and me when she took the position in an order dated April 20, 2007 following an in camera inspection that two contracts included nothing relevant to the case and production would not be provided to Alcatraz and me. "The Court has by previous action required these

documents to be turned over to the Court for in camera inspection. Production is not warranted." [75] These contracts were the lease between Maid of the Mist Steamboat Company Limited (Steamboat) and The Niagara Parks Commission ("NPC") (the "Canadian Lease") and the license contract between Maid of the Mist Corporation ("MOTM") and New York State Office of Parks, Recreation and Historic Preservation ("OPRHP") (the "New York License"). On October 31, 2006, Alcatraz and I filed a motion to compel production of these contracts.[76] On February 2, 2007, in a hearing in chambers, Judge Evans ordered that the Canadian Lease and the New York License be filed under seal for an in camera inspection.[77] On February 13, 2007, Judge Evans signed an Order Permitting the Filing of Documents Under Seal.[78] On February 15, 2007, the documents were filed under seal by Maid.[79] I obtained copies of the Canadian Lease and the New York License under Freedom of Information requests in 2009. These are the contracts that were valid in 2007 and are still valid today. The Canadian Lease was produced to my Ontario solicitor by The Niagara Parks Commission ("NPC"), and the New York License was produced to me by the New York Office of Parks, Recreation and Historic Preservation ("OPRHP"). These are the contracting parties for the Niagara Falls boat service by the two governments. The Canadian Lease is attached to MIST-1 Doc. 361 Dec #2 as Exhibit 2. The New York

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[75] MIST-1 Doc. 209 - Page 9.
[76] MIST-1 Doc. 58 and 59.
[77] MIST-1 Doc. 174.
[78] MIST-1 Doc. 167.
[79] MIST-1 Doc. 168.

License is attached to MIST-1 Doc. 361 Dec #2 as Exhibit 3. Upon review, I immediately realized that the Canadian Lease and the New York License contained extremely relevant information to MIST-1. I have no way of knowing what Judge Evans reviewed as Alcatraz and I were denied access to the documents. I recognize that it is possible that Maid did not show the correct contracts to Judge Evans. I do know that if she reviewed Exhibits 2 and 3 to Dec #2, she should have ruled that these documents were relevant and should be produced to Alcatraz and me. Exhibit 23 to Dec #2 (MIST-1 Doc. 361) is the "1982 Canadian Lease" that the State of New York had on file allegedly as documentation to accompany the 2002 New York License, but Exhibit 23 to Dec #2 was voided in 1989 and was replaced by Exhibit 2 to Dec #2.[80] I obtained the 1982 Canadian Lease from the New York State Office of the State Comptroller ("NYSOSC") under a Freedom of Information Act request. Exhibit 23 to Dec #2[81] does not contain some of the important provisions that exist in the 1989 Canadian Lease that was in effect during MIST-1 and is still in effect today. If the documents attached to Dec #2 as Exhibits 2 and 3 do not match the documents provided to Judge Evans under seal, I believe this proves Maid has committed a fraud upon the courts and Alcatraz and me. If the documents match, I believe this shows that Judge Evans committed a fraud upon Alcatraz and me and the courts. If Judge Evans reviewed the valid contracts, her failure to disclose these documents to us must be interpreted as partiality for Maid and bias against

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[80] MIST-1 Doc. 361.

[81] MIST-1 Doc. 361.

Alcatraz and me. The 1989 Canadian Lease and the 2002 New York License contain extremely relevant information. These documents show me why Maid did what they did. These contracts set the ticket prices and did not allow tickets to be sold at a price higher than the price approved by each government entity. So, when Maid entered into agreements with Alcatraz Media, Inc., Vacations Made Easy, and Look Tours for ticket sales at prices higher than was allowed by the Canadian Lease and the New York License, Maid was in breach of these contracts. This essential fact was not disclosed by Maid, and this important information was concealed by Judge Evans when she failed to inform Alcatraz and me of this following the in camera inspection. The relevant clauses are 5.15 (vi) on page 11 of the Canadian Lease and in paragraph 18 on page 15 in the General Conditions section of the New York License. This information provides an explanation for the lies and deceit of Maid in this matter. Judge Evans asked me in a hearing on February 2, 2007: "Why do you think they are out to get you? That is what you are saying. You are saying you're being picked on unfairly. Why do you think they want to... Why do you think they are picking on you? [82] This contract information establishes that Maid had dirty hands. This contract information establishes additional proof of the fraud and dishonesty of Maid as these facts were concealed throughout the litigation. This information would have made the testimony of representatives of NPC and OPRHP very important to A&W. It is certainly very possible that Maid took wrongful actions against Alcatraz

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[82] MIST-1 Doc. 174, Pages 24 and 25.

and me because NPC and/or OPRHP required them to do so. We do not know if Maid took wrongful actions against us because NPC and/or OPRHP required them to do so because Judge Evans denied the opportunity for us to conduct discovery to find out. Concealing the contracts with NPC and OPRHP further establishes the wrongful actions of Maid's attorneys. Maid's attorneys knew what was in the contracts; they knew the contracts were relevant; but they filed false pleadings to the contrary. There is additional information in the New York License that is important to Alcatraz and me. The New York License contains a material false representation by James V. Glynn, Chairman and owner of Maid. This misrepresentation is in the third WHEREAS statement. On September 10, 2002, James V. Glynn ("Mr. Glynn") signed this new 40-year license ("New York License") with the State of New York. On September 12, 2002, Edward J. Rutkowski ("Mr. Rutkowski") signed the lease for the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP"). The New York License states that Maid of the Mist Corporation ("MOTM") is the sole commercial entity with rights of access to provide scenic boat excursions from landings on both the American and Canadian sides. This is false. MOTM is not the sole commercial entity with rights of access to provide scenic boat excursions from landings on both the American and Canadian sides. MOTM has no rights in Canada as Judge Evans should have determined upon examination of the Canadian Lease. A different legal entity, Maid of the Mist Steamboat Company Limited ("Steamboat"), an Ontario entity, holds the Canadian Lease. The Canadian Lease was entered into on

July 21, 1989, was signed by James V. Glynn, and expired on November 20, 2009. James V. Glynn of Lewiston, New York is believed to be the primary shareholder of both the New York and Ontario entities, but the entities have variations in officers and directors. The Ontario entity operates in Ontario, Canada, and the New York corporation operates in New York, USA. The Canadian Lease grants rights solely to land in Canada to Maid of the Mist Steamboat Company Limited ("Steamboat"). The 1989 Canadian Lease does not mention Maid of the Mist Corporation ("MOTM") or any water rights. Mr. Glynn made a false representation when he claimed MOTM had the rights in Canada. Mr. Glynn's false representation enabled him to obtain "sole source provider" status in New York and avoid a tender and competitive bidding on the New York License. Mr. Glynn's company obtained a $523 million exclusive monopoly as a result of claiming MOTM had the rights in Canada. MOTM could not legally qualify for "sole source" provider designation under New York law. MOTM was not the only company that could have provided this service, as is required. MOTM had no rights whatsoever in Canada, and it was alleged exclusive control of the waters in Canada that was used as justification to give MOTM this special status. For a variety of other reasons, the extension of a 40-year contract based on sole source provider violates New York State Finance Law and the New York Parks Recreation and Historic Preservation Law. The Canadian legal entity with rights in Canada was under a lease that expired November 20, 2009, so it was impossible for anyone to know what would happen for the final 33 years of this New York

License contract. Under New York law, Sole Source Provider designation is to be given for only the period of time needed to ameliorate the problem that restricted the contract to only one company. In this case, there could be no justification for 40 years because of the uncertainties of the Canadian Lease, a lease that required approval of a Board that changes frequently as well as the Executive Council of Ontario that changes from election to election. Mr. Glynn of MOTM and State of New York employee, Mr. Rutkowski, signed the New York License indicating that "Maid of the Mist Corporation" was the "sole commercial entity with rights of access to provide scenic boat excursions from landings on both the American and Canadian sides." Mr. Glynn knew MOTM was not the sole commercial entity with rights of access to provide scenic boat excursions from landings on both the American and Canadian sides. Mr. Rutkowski should have known that MOTM was not the sole commercial entity with rights of access to provide scenic boat excursions from landings on both the American and Canadian sides. Why would Mr. Rutkowski give Mr. Glynn's company a 4% commission payment on boat rides in New York when Mr. Glynn was paying 15% in Canada? On the $389.9 million in projected revenue from boat rides over the 40 year term shown on the Pro-Forma attached as Schedule I to the New York License contract, New York State was to receive $15.8 million in commission payments from Mr. Glynn. At the 15% rate that Mr. Glynn pays in Canada, $389.9 million generates $58,350,000 for the landlord. New York State gets $42.5 million LESS than Ontario gets at the same level of revenues. I wonder how

exactly Mr. Glynn's company got a deal with the State of New York that's $42.5 million below market value. The picture is actually even worse than this. When you look carefully, NY State is paying Mr. Glynn. Mr. Glynn pockets 75 cents from every dollar generated by NY State's elevator. In Canada, the full fee in a similar arrangement with another entity goes to the Niagara Parks Commission. When you look at the totals for the 40-year New York License, Mr. Glynn enjoys $57.4 million from NY State's elevator and only pays NY State $39.1 million in total commissions under the New York License. Mr. Glynn gets a $523 million contract for an exclusive monopoly, and the State of New York pays him $18.3 million. I wonder how exactly Mr. Glynn's company got a deal with the State of New York where the State pays him to enjoy his exclusive monopoly. This information is important to MIST-1 because MOTM was operating under a fraudulently obtained agreement. The fact that MOTM was operating under a fraudulently obtained agreement establishes dishonesty. Alcatraz and I have stated that Maid has been dishonest throughout MIST-1. I discussed this issue with the New York State Office of the State Comptroller Bureau of Contracts in April 2009, and I was told that the New York License should not have been approved based on the information I have uncovered. Additional information in the Canadian Lease is also important to Alcatraz and me. In Paragraph 6.03 on Pages 12 and 13, Maid of the Mist attests that it does not own the words "Maid of the Mist" and states that The Niagara Parks Commission has rights to use of the name. There has been no subsequent written agreement to change the agreement made in Paragraph 6.03 of the

Canadian Lease. This makes the Canadian Trademark Application (Exhibit 17 to MIST-1 Doc. 361) especially interesting. The "trade-mark is the words "MAID OF THE MIST. " But Mr. Glynn signed the Canadian Lease stating "Tenant acknowledges that it does not claim any interest in the words 'Maid of the Mist...." The Canadian trademark filing was on April 29, 1994. So, five years AFTER signing an agreement with NPC claiming no rights to the words, a valid contract that is still in effect today, Mr. Glynn's U.S. company claimed entitlement to a trademark of the words MAID OF THE MIST. Alcatraz and I were denied the ability to obtain discovery on this because Judge Evans refused to give us the six months required to go through the Hague Convention to take depositions in Canada. The NPC has had use of the words "Maid of the Mist" since 1885. Mr. Glynn purchased the assets to his boat business in 1971. MOTM claimed in the Canadian trademark filing that the name had been in use since June 1885. According to history books, the name was actually first used in the US and Canada in May 1846 when an awkward looking large steamship with two smoke stacks was launched. It was christened "Maid of the Mist." In 1846, the Niagara Falls Ferry Association received its charter from the State of New York to operate a steamboat ferry service. It was the Niagara Falls Ferry Association in New York that first used the name. In the United States, where MOTM obtained a trademark on March 29, 1994, Mr. Glynn made the following declaration before signing: "JAMES V. GLYNN, being duly warned that willful false statements are punishable by fine or imprisonment, or both, under Section 1001 of Title

18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any registration resulting therefrom, declares: that he is President of Applicant corporation, and is authorized to execute this instrument on behalf of the Applicant; that he believes the Applicant to be the owner of the mark sought to be registered; that to the best of his knowledge and belief, no other person, firm, corporation, association, or other juristic entity has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person or entity, to cause confusion, or to cause mistake, or to deceive; that the facts set forth in this application are true; that all statements made herein of his own knowledge are true; and that all statements made herein on information and belief are believed to be true." [83] There are other entities with the right to use the words "Maid of the Mist" in commerce. The Niagara Parks Commission ("NPC") has rights to use the words to promote its sale of sightseeing boat tickets, as verified by the 1989 Canadian Lease. Steamboat has the right to use the words in Canada, not the trademark holder – MOTM. Maid complained throughout the litigation that Alcatraz and I were infringing on their name and trademark. Maid's allegations of trademark violations would have been viewed in a completely different light if the contracts had been disclosed to us. One of the most fundamental rules of discovery is that parties must be allowed to discover information that is relevant

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[83] Exhibit 18 to Dec #2 – MIST-1 Doc. 361.

and information that would lead to other discoverable information. The Canadian Lease and the New York License contained relevant information about rates, rights to the words "Maid of the Mist," and information to show that Mr. Glynn and his companies had misrepresented material information and were in breach under the terms of both contracts. The Canadian Lease would have led to discoverable information from The Niagara Parks Commission, the Canadian Intellectual Property Office, and Mr. Glynn. The New York License would have led to discoverable information from Mr. Glynn, Mr. Rutkowski, OPRHP, the New York Office of the State Comptroller, and the New York Attorney General. I complained throughout the litigation of dishonesty by Maid. The Canadian Lease and the New York License provide proof of dishonesty by Maid with the Province of Ontario and the State of New York. I learned additional information in 2009. I have learned that Maid has been brutal when dealing with competition. I have learned that people in Niagara Falls feel that Maid obtained their sweetheart monopoly contracts through improper influence with government agents.[84] I have learned that the NPC told Maid that I had inquired about competing with Maid in early August 2005. Alcatraz and I believe we finally now know the motivation for why Maid did what they did to us – Maid was in breach of contract with NPC and OPRHP, and they wanted to crush their competition. So Maid filed false sworn pleadings and committed literally hundreds of counts of perjury to damage Alcatraz and me. There is a major scandal in Niagara Falls

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[84] See the Affidavit of Frank Parlato, Exhibit 1 hereto.

with government investigations into the dealings of Maid. There are allegations of corruption, bribes, payoffs, collusion by Maid with specific people at the NPC and OPRHP. The anticipated outcome of the scandal is that Maid will lose both contracts and the contracts will be tendered for competitive bids. Several newspaper articles about this scandal are attached as Exhibit 8 to Dec #2 – MIST-1 Doc. 361. This new information discovered about Maid in 2009 should change the way an impartial judge looks at MIST-1. This new information discovered about Maid in 2009 helps provide an explanation for the many lies of Maid. I believe Maid was lying and concealing relevant information because Alcatraz and I would have immediately discovered what was really going on. We would have discovered that the $523 million New York License was obtained based upon false representations and should be voided by New York State. I believe the new information obtained by Alcatraz and me in 2009 explains why Maid was lying when they claimed there was a pricing problem with Alcatraz. Maid had a pricing problem, but it was with NPC and OPRHP; Maid was in breach of contract. Upon information and belief, Maid concealed information because Alcatraz and I would have conducted discovery with NPC and OPRHP that would have caused these government agencies to realize that Maid was in breach of contract, had obtained a trademark improperly, and had made a material misrepresentation to obtain the New York License. A billion dollar business was at risk, so Maid lied – again and again and again in MIST-1. Concealing this information from us is one of the most serious demonstrations of bias. Judge

Evans has denied Alcatraz and me the evidence that will prove fraud upon the courts.

242. **BIAS #142** -- On August 9, 2007, Judge Evans granted Summary Judgment for Maid in MIST-1.[85] Granting Summary Judgment ("SJ") for Maid was completely and totally wrong. This proves bias.

243. **BIAS #143** -- Judge Evans invented facts and twisted and ignored the law to make the SJ ruling that she did in MIST-1. This proves bias.

244. **BIAS #144** -- 210 of the 410 sentences in the Summary Judgment Order ("SJ Order") were false.[86] The proof of the false statements in the SJ Order is provided in Exhibit #22 to Amended Dec #3[87] and in paragraphs 9561 to 10852 of Dec #25 – MIST-1 Doc. #462. This proves bias.

245. **BIAS #145** -- SJ Order Sentence #2: "The parties to this action established a relationship in 2004 whereby Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively referred to as "Maid" or "Plaintiffs") authorized Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. (collectively referred to as "Alcatraz") to sell individual vouchers for tickets to ride Maid of the Mist's Niagara Falls boats on their website." The record clearly shows that false.

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[85] MIST-1 Doc. 251, and Exhibit L to the Second Pet. for Writ to DQ Judge Evans.
[86] MIST-1 Doc. 251, and Exhibit L to the Second Pet. for Writ to DQ Judge Evans.
[87] MIST-1 Doc. 377.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8004.) This shows bias.

246. **BIAS #146** -- SJ Order Sentence #3: "The relationship deteriorated after the inception of the 2005 Maid of the Mist season and Maid eventually notified Alcatraz that it would no longer honor Alcatraz vouchers after July 29, 2005." Documents in the record and testimony from Maid clearly show that this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8013.) This shows bias.

247. **BIAS #147** -- SJ Order Sentence #4: "Alcatraz's decision to continue selling individual vouchers after July 29, 2005 despite the notice from Maid that those vouchers would not be honored gave rise to the instant tortious interference with business relations action." This is false and improperly biased to Maid. This is most definitely a fact issue. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8018.)

248. **BIAS #148** -- SJ Order Sentence #6: "Alcatraz contends that it is entitled to summary judgment on Maid's tortious interference with business relations claim because Maid cannot establish that Alcatraz induced any potential Maid customers to discontinue or fail to enter into a business relationship with Maid." This is false, deceptive, and incomplete. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8025.) This shows bias.

249. **BIAS #149** -- SJ Order Sentence #8: "Maid asserts that it is entitled to summary judgment because Alcatraz tortiously interfered in Maid's business relationship with its customers by continuing to sell Maid vouchers after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8031.) This shows bias.

250. **BIAS #150** -- SJ Order Sentence #9: "Maid also seeks summary judgment with respect to Alcatraz's counterclaims alleging promissory estoppel, breach of contract, slander, and violation of the Georgia Fair Business Practices Act." This is what they ask, but it is improper and based totally on perjury. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8033.) This shows bias.

251. **BIAS #151** -- SJ Order Sentence #10: "For the following reasons, Defendants' Motion for Summary Judgment [#146] is DENIED." This is Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8035.) Judge Evans made this ruling with complete disregard for the facts and the law! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8036.) This proves bias. I believe honest people who review the record in MIST-1 will expect to see Judge Evans indicted.

252. **BIAS #152** -- SJ Order Sentence #11: "Plaintiffs' Motion for Summary Judgment [#148] is GRANTED. This is Outrageous." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8038.) Judge Evans made this ruling with disregard for the facts and the law! (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 8039.) This proves bias. I believe honest people who review the record in MIST-1 will expect to see Judge Evans indicted.

253. **BIAS #153** -- SJ Order Sentence #11: "Defendants' Request for a Hearing [#223] is DENIED." Improper and biased. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8041.) Judge Evans was unfair in not allowing the Defendants to ever orally present their case. She was biased for the Maid throughout this case. In 41 contested motions, she ruled in favor of Maid on all of them. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8042.) I had informed Judge Evans of the massive perjury in February 2007, so there is no legitimate excuse for denying a hearing where those issues could be addressed and resolved. This shows bias.

254. **BIAS #154** -- SJ Order Sentence #14: "Defendants' Motion for Leave to File [#241] and Motion for Clarification and to Strike [#243] are DISMISSED AS MOOT." Unfair – biased to Maid as Judge Evans was throughout this case. Every ruling was in favor of Maid. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8046.) This screams bias.

255. **BIAS #155** -- SJ Order Sentence #17: "Unless otherwise noted, the following facts are undisputed." This is false and truly outrageous. This is just plain PERJURY. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8052.) There is no honest reason for Judge Evans to invent

her own facts and ignore the evidence before the court. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8053.) Most of what Judge Evans wrote was false and disputed. This PROVES bias. I believe that any honest person who reviews the record will find that this claim by Judge Evans is criminally false. Judge Evans conducted MIST-1 for the sole purpose of enabling Maid to prevail. It seemed like she was on Maid's payroll.

256. **BIAS #156** -- SJ Order Sentence #18: "The Court derives the facts from the evidence received upon Plaintiffs' application for a preliminary injunction along with the parties' pleadings, depositions, and attachments and exhibits." This is TOTALLY false. Judge Evans could not possibly have considered the evidence before the court. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8055.) This PROVES bias.

257. **BIAS #157** -- SJ Order Sentence #19: "The Court finds that both parties have failed to comply with N.D. Ga. Local Rule 56 .1(B) (1), which states: A movant for summary judgment shall include with the motion and brief a separate, concise, numbered statement of the material facts to which the movant contends there is no genuine issue to be tried." This is false. Maid failed. Alcatraz and I had sufficient facts. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8058.) This shows bias.

258. **BIAS #158** -- SJ Order Sentence #20: "Each material fact must be numbered separately

and supported by a citation to evidence proving such fact." Maid failed. Alcatraz complied. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8061.) A review of these documents will prove bias.

259. **BIAS #159** -- SJ Order Sentence #21: "The court will not consider any fact: (a) not supported by a citation to evidence (including page or paragraph number); (b) supported by a citation to a pleading rather than to evidence; (c) stated as an issue or legal conclusion; or (d) set out only in the brief and not in the movant's statement of undisputed facts." Since Maid failed, Judge Evans should not have considered anything for them! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8063.) This should have been game-set-match for Alcatraz and me on Maid's motion for summary judgment. This proves bias.

260. **BIAS #160** -- SJ Order Sentence #23: "Alcatraz's Statement of Undisputed Facts contains few facts and is little more than a reactionary document listing the facts upon which Alcatraz disagrees with Maid." This is improper. Judge Evans ignored my statement of facts, and the Alcatraz facts were fine. This shows bias.

261. **BIAS #161** -- SJ Order Sentence #24: "Nonetheless, the Court finds that it is possible to determine which facts are undisputed and has reconstructed the facts in this section of the order." This is absolutely false and totally biased to Maid. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8071.)

262. **BIAS #162** -- SJ Order Sentence #25: "Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Limited, have operated boat tours in Niagara Falls since 1846." Documents and deposition testimony from Maid prove this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8075.) This shows bias.

263. **BIAS #163** -- SJ Order Sentence #32: "Defendants Alcatraz Media, LLC, and Alcatraz Media, Inc., operate a ticket brokerage business through a web site, www.niagarafallstours.net." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8090.) This shows bias.

264. **BIAS #164** -- SJ Order Sentence #33: "Defendant William Windsor ("Windsor") is the father of Alcatraz's owner and participates in the management of Alcatraz." The deposition testimony clearly shows that this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8094.) This shows bias.

265. **BIAS #165** -- SJ Order Sentence #37: "However, that does not mean that the testimony and evidence presented at the preliminary injunction stage are not evidence that can be considered at the summary judgment phase." I do not know if this is true or not. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8103.) I do know that almost all of the evidence submitted by Maid by the preliminary injunction phase was false, and this had been proven through depositions. Judge Evans could not possibly have reviewed the evidence before the

court with an understanding of what was being said. (See Exhibits #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Dec #3 attached to the Motion to Reopen filed April 24, 2009 and amended on May 11, 2009 – MIST-1 Doc. 377.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8104.) This proves bias.

266. **BIAS #166** -- SJ Order Sentence #38: "Federal Rule of Civil Procedure 65(a) (2) provides: 'any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial.'" This sounds reasonable, but the issue is that an order is not evidence, and false testimony is not acceptable evidence. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8106.) Judge Evans was put on notice at the hearing in Chambers on February 2, 2007 that Maid had lied hundreds of times. (Docket #174.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8107.) (See Exhibits #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of the Third Declaration of William M. Windsor attached to the Motion to Reopen filed April 24, 2009 and amended on May 11, 2009 – MIST-1 Doc. 377.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8108.) This shows bias.

267. **BIAS #167** -- SJ Order Sentence #39: "Accordingly, citations to and quotations from exhibits admitted as evidence at the preliminary injunction hearing are properly considered at this summary judgment phase if they would also be admissible at a trial on the merits." True, but that

evidence needs to be true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8110.) Most of this evidence was false. Most of the documents would not be admissible. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8111.) This shows bias.

268. **BIAS #168** -- SJ Order Sentence #40: "In July 2004, Alcatraz applied to Maid for credit for the purpose of selling individual vouchers for Maid tickets (as opposed to tour packages that include a voucher) on its website." This is false as the uncontroverted record shows. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8114.) This shows bias.

269. **BIAS #169** -- SJ Order Sentence #42: "Maid's letter stated, in part: Thank you for returning the application for credit. We are pleased to offer your company credit with Maid of the Mist. We look forward to serving you and your clients this coming season . . . Windsor Dep., Ex. 3." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8120.) But Judge Evans omitted the really important part of the letter! Note what Judge Evans did not include: "We now require a sample of your voucher for approval. We require a carbonized voucher with three parts: one for your tour escort to retain, one for our office to retain, and one for us to mail with your invoice. Your voucher should contain your company name and billing address as well as how many people to expect in your group. Groups will not be accepted on a charge basis without a voucher in triplicate. If we approve your voucher, our terms will be to bill your company every fifteen

days. Please note that we also accept MasterCard and VISA at the time of your tour. We look forward to serving you and your clients this coming season, and await a copy of our voucher." [Exhibit 191 to the Fifth Declaration of William M. Windsor -- MIST-1 Doc. 378 and ¶ 8122.) Omitting the most important information demonstrates bias. Everything that Judge Evans did – even listing an alleged statement of fact – was done with a bias to position Maid to prevail.

270. **BIAS #170** -- SJ Order Sentence #43: "This essentially established a credit arrangement under which customers could purchase vouchers from Alcatraz and pay Alcatraz directly." This is false, and the deposition testimony of Schul of Maid establishes this. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8127.) This shows bias.

271. **BIAS #171** -- SJ Order Sentence #44: "Maid would charge Alcatraz the net rate prices of $9 .65 for each adult voucher that was redeemed at its box offices." This is false. Judge Evans ignored the facts. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8132.) This shows bias.

272. **BIAS #172** -- SJ Order Sentence #45: "During the 2005 season, the regular price of an adult ticket for a Maid tour was $11.50." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8135.) This shows bias.

273. **BIAS #173** -- SJ Order Sentence #46: "Alcatraz and its affiliates operate several websites

in addition to this one, but www.niagarafallstours .net is the only website relevant to the instant action and will be referred to as Alcatraz's website." This is not totally accurate, and this was not the sworn testimony before the court. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8138.) This shows bias.

274. **BIAS #174** -- SJ Order Sentence #49: "Maid entered into similar arrangements with two other ticket brokerage companies, www.vacationsmadeeasy.com as well as www.looktours.com, for the sale of vouchers for the 2005 season." This is partially false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8146.) This shows bias.

275. **BIAS #175** -- SJ Order Sentence #50: "Having established a relationship with Maid, Alcatraz began selling individual vouchers for Maid of the Mist tickets for the 2005 season." This is true at a point, but extremely important information has been ignored. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8149.) The Court left out eight months, numerous emails, faxes, several conversations, and an oral contract for the 2005 season. (See Exhibit #24 to the Third Declaration of William M. Windsor attached to the Motion to Reopen filed April 24, 2009 and amended May 11, 2009 – MIST-1 Doc. 377.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8150-8153.) This shows bias.

276. **BIAS #176** -- SJ Order Sentence #51: "Alcatraz charged $13 .95 per adult voucher, $2

.45more than the retail price an adult would pay for a ticket at Maid's box office and $4 .30 more than the price Alcatraz paid Maid for the voucher." This is partially false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8155.) This shows bias.

277. **BIAS #177** -- SJ Order Sentence #53: "The net rate price represents a "wholesale" discount from Maid's retail rate of $11.50 and was available to other brokerage companies and tour operators in addition to Alcatraz." This is partially false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8160.) This shows bias.

278. **BIAS #178** -- SJ Order Sentence #54: "The manner in which Alcatraz listed the price of Maid vouchers on its website implied that Alcatraz was giving online customers a discount." This is False! This has been explained in detail in the Motion to Reopen Case. Alcatraz was giving a discount! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8164.) This shows bias.

279. **BIAS #179** -- SJ Order Sentence #56: "Alcatraz did not provide the retail price of Maid's tickets on its website, nor did it provide the retail price of Maid's tickets on the vouchers it sold." True, but presented for improper reasons. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8170.) This shows bias.

280. **BIAS #180** -- SJ Order Sentence #57: "In addition to charging a higher price than Maid's retail price for adult vouchers, Alcatraz initially sold customers time-specific vouchers for rides on Maid of

the mist boats." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8173.) This shows bias.

281. **BIAS #181** -- SJ Order Sentence #58: "Problems arose between the parties after Maid began receiving complaints from customers who had purchased individual vouchers from Alcatraz for boat tours of Niagara Falls." This is false. This did not happen. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8176.) This proves bias.

282. **BIAS #182** -- SJ Order Sentence #59: "According to Maid, these customers were arriving at the Maid box office with improper paperwork and Maid was having to send them away to return with proper paperwork." This is false. There is absolutely no evidence or testimony in this regard. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8180.) This shows bias.

283. **BIAS #183** -- SJ Order Sentence #60: "Maid asserts that customers were also irate when they realized that Alcatraz had charged them several dollars more for their vouchers than they would have had to pay for tickets at the Maid box office." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8185.) There were no complaints. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8186.) There is absolutely no proof of any complaints from any customer. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8187.) This shows bias.

284. **BIAS #184** -- SJ Order Sentence #61: "Maid also asserts that customers who had purchased vouchers from Alcatraz thought that they had purchased tickets for a Maid tour at a specific time, and these customers were angry upon arriving at the Maid box office and learning that Maid does not issue tickets for tours at specific times." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8189.) This shows bias.

285. **BIAS #185** -- SJ Order Sentence #62: "As a result of these problems, Sandra Carlson, Assistant Controller for Maid, notified Alcatraz in writing on June 14, 2005, that it would not accept Alcatraz's vouchers sold after the end of June 2005. Alcatraz Dep., Ex. 33." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8194.) Carlson apparently wrote the letter, though she never testified, so there isn't even proof of that. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8195.) Regardless, there were no valid problems caused by Alcatraz, and there were no complaints. There is absolutely no proof of any complaints from any customer. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8196.) This proves bias.

286. **BIAS #186** -- SJ Order Sentence #70: "Alcatraz and Maid subsequently reached an agreement regarding the paperwork problems, and Maid continued to accept Alcatraz vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8216.) This shows bias.

287. **BIAS #187** -- SJ Order Sentence #71: "Alcatraz discontinued its practice of selling customers time-specific vouchers but did not lower its prices or state the specific amount of its service charges on its website or on the face of the vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8221.) This shows bias.

288. **BIAS #188** -- SJ Order Sentence #74: "However, on July 19, 2005, Maid again wrote Alcatraz because customer complaints had continued." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8230.) This shows bias.

289. **BIAS #189** -- SJ Order Sentence #75: "The letter stated, in part: The problems with the voucher seem to have been addressed and we appreciate your cooperation." True that this was written, but false that anything had been done to change the voucher. Nothing changed except perhaps that Maid trained their ticket booth people to know that Alcatraz customers were submitting vouchers. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8234.) This shows bias.

290. **BIAS #190** -- SJ Order Sentence #76: "However, we are still experiencing problems with pricing." True that this was written, but false that there were problems with pricing. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8236.) This shows bias.

291. **BIAS #191** -- SJ Order Sentence #77: "Our President has witnessed customer dissatisfaction first-hand on his last two visits to the admissions area." This is false. Glynn admitted this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8239.) This shows bias.

292. **BIAS #192** -- SJ Order Sentence #78: "These clients feel that they have been mislead [sic] and overcharged by Maid of the Mist as well as by Alcatraz." This was written, but this was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8242.) This shows bias.

293. **BIAS #193** -- SJ Order Sentence #79: "This is reflecting poorly on Maid of the Mist and it cannot continue. In order to remedy this issue we require Alcatraz Media to clearly state on the [voucher] what the Maid of the Mist charges for the boat tour and the amount of service charges that are added by your company. Alcatraz Dep., Ex. 38. Rod Smith Dep., Ex. 26." This was written, but this was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8246.) This shows bias.

294. **BIAS #194** -- SJ Order Sentence #80: "On July 30, 3005, Maid posted a sign at its box offices that Alcatraz did not have authority to sell vouchers for Maid tickets and that Maid would not accept vouchers issued after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8250.) This shows bias.

295. **BIAS #195** -- SJ Order Sentence #83: "As a result, Alcatraz added some language

regarding the booking fee to the vouchers." This is false. Alcatraz added the requested language to the vouchers, not "some language." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor – Exhibit #252.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8258.) Judge Evans fails to identify the letter where the request was made for Alcatraz to make this change to its VOUCHERS. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor – Exhibit #113.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8259.) This proves bias.

296. **BIAS #196** -- SJ Order Sentence #84: "However, Alcatraz decided not to disclose Maid's retail rate or its own booking fee on the website or the vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8261.) This proves bias.

297. **BIAS #197** -- SJ Order Sentence #85: "On July 29, 2005, Maid notified Alcatraz that it must immediately stop selling vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8265.) This shows bias.

298. **BIAS #198** -- SJ Order Sentence #86: "The letter stated, in part: We believe that our desire for Alcatraz Media to eliminate the misleading website pricing of the Maid of the Mist Boat Tour has been clearly communicated on several occasions." The letter says this, but this sentence is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8268.) This shows bias.

299. **BIAS #199** -- SJ Order Sentence #87: "Our admissions staff continue to receive complaints from patrons that purchased their E-vouchers from Alcatraz Media and feel they were over charged, misled, and taken advantage of." The letter says this, but this sentence is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8271.) This shows bias.

300. **BIAS #200** -- SJ Order Sentence #88: "We find this customer feedback to be unacceptable and therefore request that you immediately discontinue the sale of [vouchers] for the Maid of the Mist Boat Tour and remove the tour from your website." The letter says this, but this sentence is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8275.) This shows bias.

301. **BIAS #201** -- SJ Order Sentence #89: "Beginning on July 30, 2005, Maid kept a log of how many Alcatraz vouchers were presented at its box offices." This is false. Deposition testimony from Maid proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8278.) This shows bias.

302. **BIAS #202** -- SJ Order Sentence #90: "Maid documented 1,802 vouchers that were sold before July 29, 2005 and redeemed after that date." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8281.) This shows bias.

303. **BIAS #203** -- SJ Order Sentence #91: "Maid documented 894 vouchers that it did not honor based on the fact that they were sold by

Alcatraz after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8284.) This shows bias.

304. **BIAS #204** -- SJ Order Sentence #92: "Finally, Maid kept track of whether the customers whose vouchers were not honored thereafter purchased tickets from Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8288.) The log had a place for comments. This comments column was ruled inadmissible by Judge Evans at the Preliminary Injunction Hearing. It was not evidence before the Court as there was no testimony from any Maid employee who dealt with the customers. (MIST-1 Doc. 35, 36, 37 – Transcript of the Preliminary Injunction Hearing.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8289.) The affidavits of the four employees who dealt with the customers were not allowed as these witnesses failed to appear for depositions. (MIST-1 Doc. 174 – Hearing in Chambers on February 2, 2007.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8290.) The 9 adults that the log showed "didn't purchase tickets" actually DID PURCHASE TICKETS. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor – Exhibit #29, 153, 154, and 155.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8291.) This shows bias.

305. **BIAS #205** -- SJ Order Sentence #93: "Maid's decision not to honor Alcatraz vouchers after July 29, 2005, resulted in a number of Alcatraz customers expressing confusion and anger with both Maid and Alcatraz." This is false. (MIST-1 Doc. 378

- Fifth Declaration of William M. Windsor ¶ 8293.) This shows bias.

306. **BIAS #206** -- SJ Order Sentence #96: "On the other hand, Maid submits that several customers chose not to purchase tickets from Maid's box offices after Maid refused to honor their vouchers." It is true that Maid claimed this, but their claim was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8304.) This shows bias.

307. **BIAS #207** -- SJ Order Sentence #97: "Maid felt it necessary to give one particularly irate Alcatraz customer five complimentary vouchers for rides on Maid boat tours." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8309.) The customer, Richard Puglisi, provided a sworn affidavit stating that he was not given complimentary vouchers. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor – Exhibit #183 and 184.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8310.) There was no evidence to prove that he was given complimentary vouchers. Ruddy's statement to this effect was hearsay because Ruddy testified that he was not at the ticket booth. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8311.) This is at the very least a fact issue to be decided by the jury. Judge Evans had no right to take Maid's claim over the sworn testimony of the customer. Alcatraz and I have proof that Ruddy and Maid lied hundreds of times. (Exhibits #1 to 13 of the Third Declaration of William M. Windsor attached to the Motion to Dismiss filed April 24, 2009 and amended on May 11, 2009 – MIST-1 Doc.

377.) There is nothing to question the honesty of Richard Puglisi. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8312.) This shows bias.

308. **BIAS #208** -- SJ Order Sentence #98: "Maid also alleges that it sold tickets to Alcatraz customers for below-retail prices to assuage them after Maid refused to honor their Alcatraz vouchers." This is false. The 30(b)(6) testimony disproves this. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8314.) This shows bias.

309. **BIAS #209** -- SJ Order Sentence #99: "Additionally, Maid asserts that it gave Alcatraz customers complimentary souvenirs in an effort to mitigate Alcatraz's damage to Maid's goodwill." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8317.) Mr. Ruddy at the 30(b)(6) deposition made no such claim, and he was asked very specifically about just exactly this. (MIST-1 Doc. 90 and 132 – Deposition of Timothy P. Ruddy.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8318.) Judge Evans was absolutely wrong and worse than biased to take this wrongful position. Maid of the Mist Steamboat Company Limited was bound by Ruddy's testimony, and Maid's attempt to introduce new "evidence" that was concealed throughout the lawsuit should have been immediately disallowed rather than quoted in this order. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8319.) This shows bias.

310. **BIAS #210** -- SJ Order Sentence #102: "Counsel for Maid sent Alcatraz a cease-and-desist

letter on August 5, 2005, threatening legal action if Alcatraz did not stop selling vouchers for Maid tickets. See Windsor Dep., Ex. 11." Incorrect. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8327.) This shows bias.

311. **BIAS #211** -- SJ Order Sentence #103: "Mr. Windsor responded by e-mail to Maid's counsel at least three times." True, but not the real story. Judge Evans left out that neither Maid nor Maid's attorneys ever spoke with Windsor despite many attempts by Windsor. Judge Evans (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8331.) This shows bias.

312. **BIAS #212** -- SJ Order Sentence #111: "Although Alcatraz still charged $13 .95 per adult voucher on July 29, 2005, see Prelim. Inj. Hr'g, Ex. 24, Alcatraz changed the price it charged for an adult voucher several times over the following weeks and months." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8355.) This shows bias.

313. **BIAS #213** -- SJ Order Sentence #112: "For example, on August 10, 2005, Alcatraz charged $15.95 per adult voucher. Prelim. Inj. Hr'g, Ex. 12." This is hearsay. There was no evidence submitted by anyone who printed this exhibit. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8358.) This shows bias.

314. **BIAS #214** -- SJ Order Sentence #113: "On August 15, 2005, Alcatraz charged $21.50 per adult voucher. Alcatraz Dep., Ex. 46." Hearsay.

There was no evidence submitted by anyone who printed this exhibit. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8361.) This shows bias.

315. **BIAS #215** -- SJ Order Sentence #114: "On August 18, 2005, Alcatraz charged $9.95 per adult voucher. Prelim. Inj. Hr'g, Ex. 23." Hearsay. There was no evidence submitted by anyone who printed this exhibit. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8364.) Regardless, Maid's managers testified that Alcatraz was free to set its own rates, and as an independent retailer of booking services. This proves bias.

316. **BIAS #216** -- SJ Order Sentence #115: "On August 19, 2005, Alcatraz charged $21.50 per adult voucher. Alcatraz Dep., Ex. 47." Hearsay. There was no evidence submitted by anyone who printed this exhibit. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8367.) This shows bias.

317. **BIAS #217** -- SJ Order Sentence #117: "Maid persisted in its refusal to honor Alcatraz vouchers at its ticket booths." Maid refused to honor some, but not all. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8374.) This shows bias.

318. **BIAS #218** -- SJ Order Sentence #119: "When requesting a refund from Alcatraz via email, at least one customer indicated that it was her understanding that Alcatraz's actions constituted fraud." True, but this customer, Judy Berry, had

been refunded before her tour, and she knew it. She was working with Maid in an attempt to damage Alcatraz. She was a co-conspirator in the conspiracy to commit fraud against the Defendants. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8379.) This shows bias.

319. **BIAS #219** -- SJ Order Sentence #125: "Between the 2005 and 2006 seasons, as a result of its poor experience with Alcatraz, Maid terminated its relationship with the two other ticket brokerages that sold individual vouchers (www.vacationsmadeeasy .com and www.looktours .com)." This was claimed, but this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8393.) This shows bias.

320. **BIAS #220** -- SJ Order Sentence #126: "Maid had not received any customer complaints regarding either of the other ticket brokerages. False and hearsay. Documents prove this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8396.) This shows bias.

321. **BIAS #221** -- SJ Order Sentence #127: "Maid asserts that both of the other ticket brokerages charged the face value of the ticket (the price Maid charges), such that their booking fee was only the difference between the ticket price and the net adult rate for which the brokerage purchased it." This is false. Documents prove this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8399.) This shows bias.

322. **BIAS #222** -- SJ Order Sentence #128: "Some time on or before February 6, 2006, Alcatraz began selling e-tickets for Maid's boat tours for the 2006 season." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8402.) This proves bias.

323. **BIAS #223** -- SJ Order Sentence #129: "As used in this Order, an e-ticket is different from a voucher in that a voucher is redeemed for a ticket by Maid at its box offices, whereas an e-ticket is redeemed for a ticket by Alcatraz itself." Improper. This is not the terminology used throughout the case! This distorts the entire record of the case. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8406.) This shows bias.

324. **BIAS #224** -- SJ Order Sentence #131: "No evidence has been presented showing that Alcatraz ever did acquire any Maid tickets by any of these means, however." ABSOLUTELY FALSE! Documents in the record and the transcript of the February 2, 2007 hearing prove this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8410.) This proves bias.

325. **BIAS #225** -- SJ Order Sentence #132: "In February 2006 and March 2006, Alcatraz still did not state Maid's ticket price or Alcatraz's booking few on its website or on the printed e-tickets." Irrelevant and misleading. This shows bias. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8414.)

326. **BIAS #226** -- SJ Order Sentence #134: "E-ticket" has been used interchangeably with "voucher" in some of the parties' communications." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8419.) This shows bias.

327. **BIAS #227** -- SJ Order Sentence #135: "However, the Court uses "eticket" to refer only to a print-out that Alcatraz would redeem for a ticket." This is improper. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8422.) This shows bias.

328. **BIAS #228** -- SJ Order Sentence #136: "Everything sold by Alcatraz during the 2005 season was a voucher, whereas everything sold by Alcatraz during the 2006 season was an e-ticket." False and Improper. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8425.) This shows bias.

329. **BIAS #229** -- SJ Order Sentence #137: "Maid filed an updated brief in support of its request for temporary restraining order in the Superior Court of Gwinnett County, Georgia on March 20, 2006." True, and it was false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8429.) This shows bias.

330. **BIAS #230** -- SJ Order Sentence #139: "Alcatraz also answered the complaint on March 28, 2006, and asserted counterclaims alleging promissory estoppel, breach of contract, slander, and violations of the Georgia Fair Business Practices Act, O.C.G.A. § 10-1-391 et seq." True that Alcatraz

answered the Complaint, but the date is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8435.) This shows bias.

331. **BIAS #231** -- SJ Order Sentence #145: "Maid alleged two state law causes of action – tortious or intentional interference with business relations under Georgia common law, and false or fraudulent advertising under O.C.G.A. 10-1-421." True that this is what they alleged (though not in their pleadings). (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8451.) False that the allegations had any justification whatsoever. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8452.) This shows bias.

332. **BIAS #232** -- SJ Order Sentence #150: "Because Alcatraz's future sale of Maid vouchers threatens Maid's good will, the Court concludes that the value of the injunction to Maid derives from the value of Maid's goodwill." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8462.) This shows bias.

333. **BIAS #233** -- SJ Order Sentence #151: "Maid has been operating tours at Niagara Falls for 161 years. Maid sold 2.5 million tickets for the 2005 season at $11.50 per ticket, generating nearly $29 million in revenue." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8465.) This shows bias.

334. **BIAS #234** -- SJ Order Sentence #162: "Summary judgment is appropriate only "if the

pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" Fed. R. Civ. P. 56(c)." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8489.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8490.) This proves bias.

335. **BIAS #235** -- SJ Order Sentence #163: "In ruling on a summary judgment motion, the Court must view the evidence in a light most favorable to the non-moving party. Adickes v. S.H. Kress & Co. 398 U.S. 144, 157 (1970)." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8492.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8493.) This shows bias.

336. **BIAS #236** -- SJ Order Sentence #164: "Further, the Court may not make credibility determinations, weigh the evidence, or draw inferences from the facts. Anderson v Liberty Lobby, Inc., 477 U.S. 242, 255 (1986)." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8495.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8496.) Judge Evans made improper credibility determinations or she would have never made many of the findings that she made. Judge Evans invented many of the so-called facts. Judge Evans weighed the evidence by ignoring the evidence of A&W. Judge Evans actually

stated in the Summary Judgment Order that she drew inferences. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8497.) According to this citation in her own order, Judge Evans violated the law REPEATEDLY. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8498.) This proves bias.

337. **BIAS #237** -- SJ Order Sentence #165: "To prevail in its motion for summary judgment, the moving party must show that the evidence is insufficient to establish an essential element of the non-moving party's case. Celotex Carp, v. Catrett, 477 U.S. 317, 325 (1986)." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8500.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8501.) This proves bias.

338. **BIAS #238** -- SJ Order Sentence #166: "If the moving party makes a sufficient showing, then the non-moving party "must come forward with 'specific facts showing that there is a genuine issue for trial." Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8504.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8505.) This proves bias.

339. **BIAS #239** -- SJ Order Sentence #167: "If the evidence supporting the nonmoving party's claims is insufficient for a jury to return a verdict for the non-moving party, or is "merely colorable" or "not

significantly probative," then the moving party is entitled to summary judgment. Anderson, 477 at 249." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8507.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8508.) This shows bias.

340. **BIAS #240** -- SJ Order Sentence #168: "If, however, reasonable minds could differ as to the import of the evidence, and a reasonable interpretation of the evidence could lead to a verdict for the non-moving party, then summary judgment is inappropriate. Id. at 251-52." This is true. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8510.) Unfortunately, Judge Evans did not follow the law. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8511.) This proves bias.

341. **BIAS #241** -- SJ Order Sentence #173: "Maid asserts in its Motion for Summary Judgment [#148] that it and not Alcatraz is entitled to summary judgment on its claim for tortious interference with business relations." This is what they claim, but their claim was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8523.) This shows bias.

342. **BIAS #242** -- SJ Order Sentence #174: "Maid argues that it has submitted sufficient evidence to meet all four elements of the tort under Georgia law." This is what they claim, but their claim was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8525.) This shows bias.

343. **BIAS #243** -- SJ Order Sentence #175: "Maid contends that it is entitled to permanent injunctive relief against Alcatraz on the basis of its tortious interference with Maid's business relations." True, but a false claim. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8527.) This shows bias.

344. **BIAS #244** -- SJ Order Sentence #176: "Additionally, Maid asserts that it is entitled to summary judgment on Alcatraz's four counterclaims for breach of contract, promissory estoppel, slander, and violations of the Georgia Fair Business Practices Act." This is what they claim, but their claim was false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8529.) This shows bias.

345. **BIAS #245** -- SJ Order Sentence #178: "Maid claims that Alcatraz intentionally interfered with Maid's business relations with its customers by continuing to sell vouchers for Maid tickets after July 29, 2005, the date on which Maid terminated its credit arrangement with Alcatraz." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8533.) This shows bias.

346. **BIAS #246** -- SJ Order Sentence #186: "Maid asserts that it was entitled to revoke Alcatraz's authorization to sell Maid vouchers via direct billing at any time." This is false. Maid never discussed with anyone any right to revoke Alcatraz's ability to sell Maid vouchers during the 2005 season. It was never discussed with Windsor, and Carolyn Ballard Bazzo has advised Windsor that it was never discussed with her. (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 8555.) This shows bias.

347. **BIAS #247** -- SJ Order Sentence #187: "Maid submits that it did revoke Alcatraz's authorization to sell Maid vouchers via direct billing as of July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8564.) This shows bias.

348. **BIAS #248** -- SJ Order Sentence #188: "It is Maid's position that, because Alcatraz no longer had authorization to sell Maid tickets as of July 29, 2005, Alcatraz acted improperly and without privilege by continuing to sell tickets after that date." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8572.) This shows bias.

349. **BIAS #249** -- SJ Order Sentence #193: "The Court finds nothing in the record to evidence a binding contract between the two parties for the 2005 season or thereafter." This is so false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8586.) The evidence before the court was overwhelming. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8587.) This proves bias. MASSIVE BIAS. THIS VIOLATES EVERYTHING.

350. **BIAS #250** -- SJ Order Sentence #194: "Instead, the evidence in the record shows that Maid authorized Alcatraz to sell individual vouchers via direct billing, and that Maid had the right to revoke that authorization at any time." This is false.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8591.) This shows bias.

351. **BIAS #251** -- SJ Order Sentence #195: "The entire exchange between the parties to establish a relationship was as follows. In July 2004, Alcatraz submitted a completed credit application to Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. See Windsor Dep., Ex. 2. In the application, Alcatraz requested a credit line of $10,000 .00 per month from Maid and Alcatraz agreed to pay all amounts owed to Maid when due. See id. Alcatraz provided Maid with credit references and a sample voucher form. See id. On July 27, 2004, Midge Serrianne, Bookkeeper for Maid, wrote to Alcatraz to let it know the credit application had been approved. Windsor Dep., Ex. 3. The letter stated that Maid was "pleased to offer your company credit with the Maid of the Mist" and informed Alcatraz that Maid would bill Alcatraz every fifteen days for vouchers redeemed at the Maid box office. Id. The letter closed with the statement, "'We look forward to serving you and your clients this coming season." Id." This is outrageously false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8596.) This is so false that I cannot help but wonder if Judge Evans or a clerk for Judge Evans may have been improperly influenced to make such statements in this Summary Judgment Order. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8597.) The evidence before the court was overwhelming. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8598.) This proves bias.

352. **BIAS #252** -- SJ Order Sentence #197: "It is clear from the record that the relationship between Maid and Alcatraz was a credit relationship only." This is false. TOTALLY OUTRAGEOUS. See Exhibit 24 to the Third Declaration of William M. Windsor. The evidence before the court was overwhelming. How many "credit relationships only provide Certificates of Insurance showing the party as an Additional Insured? How many allow complicated voucher arrangements? (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8604.) This proves bias.

353. **BIAS #253** -- SJ Order Sentence #200: "Maid's Group Policy explicitly informed Alcatraz that Maid had the right to revoke this credit authorization at any time." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8610.) This shows bias.

354. **BIAS #254** -- SJ Order Sentence #201: "Revocation of the credit authorization meant nothing more than that Maid would no longer accept Alcatraz vouchers for which it had not been prepaid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8612.) This shows bias.

355. **BIAS #255** -- SJ Order Sentence #202: "There is no evidence in the record showing that Maid granted Alcatraz any kind of enduring or binding right to sell Maid tickets." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8615.) This proves bias.

356. **BIAS #256** -- SJ Order Sentence #203: "The evidence shows that Maid revoked Alcatraz's authorization to sell vouchers for Maid via direct billing on July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8618.) This shows bias.

357. **BIAS #257** -- SJ Order Sentence #204: "After July 29, 2005, Alcatraz no longer had a relationship with Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8622.) This proves bias.

358. **BIAS #258** -- SJ Order Sentence #205: "When Alcatraz continued to sell individual vouchers for Maid tickets after July 29, 2005, Alcatraz acted without privilege, as a stranger or meddler in Maid's relationships with customers for its tour boat rides." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8626.) This shows bias.

359. **BIAS #259** -- SJ Order Sentence #206: "Despite notice from Maid that it was no longer authorized to sell vouchers for Maid tickets via direct billing as of July 29, 2005, Alcatraz continued to sell Maid vouchers after that date." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8630.) This shows bias.

360. **BIAS #260** -- SJ Order Sentence #207: "In doing so, Alcatraz acted improperly by misrepresenting its status as an authorized dealer of Maid of the Mist tour tickets to online customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8634.) This shows bias.

361. **BIAS #261** -- SJ Order Sentence #208: "Customers who purchased Alcatraz vouchers were understandably confused and upset when they arrived at the Maid box office and discovered they had purchased vouchers that were worthless." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8638.) This proves bias.

362. **BIAS #262** -- SJ Order Sentence #209: "The Court finds that Alcatraz acted improperly and without privilege in its practice of selling Maid tickets after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8643.) This shows bias.

363. **BIAS #263** -- SJ Order Sentence #210: "As of that date, Alcatraz became a "stranger, interloper, or meddler" in the relationship between Maid and its customers and wrongfully interfered in that relationship by misrepresenting to Maid customers numerous times that it was authorized to sell vouchers for Maid tickets." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8648.) This shows bias.

364. **BIAS #264** -- SJ Order Sentence #213: "Maid contends that Alcatraz acted maliciously when it continued selling Maid tickets after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8660.) This shows bias.

365. **BIAS #265** -- SJ Order Sentence #214: "Maid submits Windsor's emails as evidence that

Alcatraz had no intention of ever terminating its sale of Maid tickets and that Alcatraz hoped to interfere in and injure Maid's relationship with its customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8665.) This proves bias.

366. **BIAS #266** -- SJ Order Sentence #215: "Maid also submits that Alcatraz's repeated alteration of the price of Maid vouchers on its website is evidence of Alcatraz's intent to injure Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8668.) This shows bias.

367. **BIAS #267** -- SJ Order Sentence #219: "The Court finds that Alcatraz acted purposely and with malice with the intent to injure after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8680.) OUTRAGEOUS. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8681.) This proves bias.

368. **BIAS #268** -- SJ Order Sentence #220: "Alcatraz had knowledge of Maid's rights respecting its customers and intentionally interfered with them." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8686.) OUTRAGEOUS. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8687.) This proves bias.

369. **BIAS #269** -- SJ Order Sentence #221: "Prior to July 29, 2005, Maid informed Alcatraz that

Alcatraz customers were surprised and unhappy when they arrived at Maid's box office and learned they had paid several dollars more per voucher than they would have had to pay at Maid's box office for a retail priced ticket." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8692.) This shows bias.

370. **BIAS #270** -- SJ Order Sentence #222: "Alcatraz knew that this was causing problems for Maid and was negatively impacting its relationship with its customers." This is false. There is no such evidence. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8695.) This proves bias.

371. **BIAS #271** -- SJ Order Sentence #224: "Maid asked Alcatraz to make both the Maid ticket prices and the Alcatraz service charges clear to its customers. Alcatraz chose not to do so." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8701.) This proves bias.

372. **BIAS #272** -- SJ Order Sentence #225: "Prior to July 29, 2005, Alcatraz had a relationship with Maid and was authorized by Maid to serve as an intermediary between Maid and its customers by selling vouchers for Maid tickets." This is false. There is no such evidence. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8704.) This proves bias.

373. **BIAS #273**-- SJ Order Sentence #226: "However, after July 29, 2005, Alcatraz was no longer an intermediary between Maid and its

customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8708.) This shows bias.

374. **BIAS #274** -- SJ Order Sentence #227: "Alcatraz had no privilege to interfere in Maid's relationship with its customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8712.) This shows bias.

375. **BIAS #275** -- SJ Order Sentence #228: "Despite this, Alcatraz continued to sell Maid tickets it had been informed Maid would no longer honor." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8716.) This shows bias.

376. **BIAS #276** -- SJ Order Sentence #229: "Alcatraz knew this would impact Maid's relationship with those customers in a negative way." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8721.) This shows bias.

377. **BIAS #277** -- SJ Order Sentence #230: "After July 29, 2005, Alcatraz also engaged in a practice of over- and under-pricing its vouchers for Maid tickets." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8726.) This shows bias.

378. **BIAS #278** -- SJ Order Sentence #231: "In the three weeks following July 29, 2005, Alcatraz changed the price it charged for adult Maid vouchers from $13.95 per voucher ($2.45 higher than the Maid price of $11.50) to $15.9 per voucher, $21.50 per

voucher, $9.95 per voucher, and back to $21.50 per voucher." This is false. There is no evidence of this. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8729.) This shows bias.

379. **BIAS #279** -- SJ Order Sentence #232: "Alcatraz knew that this would create problems for Maid at its box office, just as it had created problems for Maid prior to July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8732.) This shows bias.

380. **BIAS #280** -- SJ Order Sentence #233: "Finally, after Maid revoked Alcatraz's authorization to sell Maid vouchers via direct billing, Alcatraz informed Maid of its intent to "provid[e] form letters to all of our customers to enable them to quickly and easily file complaints with the Attorneys General and the Better Business Bureaus." Windsor Dep., Ex. 15." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8736.) This shows bias.

381. **BIAS #281** -- SJ Order Sentence #235: "The anticipated, intentional Effect of filing these complaints was a detrimental one on Maid's relationship with its current and future customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8742.) This shows bias.

382. **BIAS #282** -- SJ Order Sentence #240: "Maid asserts that Alcatraz's sale of vouchers it knew would not be honored constitutes inducement of a third party not to enter into or continue a business relationship with Maid." This is false.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8756.) This shows bias.

383. **BIAS #283** -- SJ Order Sentence #241: "Maid also points to Windsor's writing of a form letter for one customer which was filed with the Better Business Bureau and contends that this act likely turned that customer against Maid and induced him not to do business with Maid in the future." This is false. There is no evidence of this. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8759.) This shows bias.

384. **BIAS #284** -- SJ Order Sentence #242: "The record shows that after July 29, 2005, Alcatraz sold 894 vouchers it had been notified would not be honored by Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8762.) This shows bias.

385. **BIAS #285** -- SJ Order Sentence #243: "Alcatraz knew or should have known that this would anger Maid customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8765.) This shows bias.

386. **BIAS #286** -- SJ Order Sentence #244: "Alcatraz knew or should have known that some customers would take this anger out on Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8769.) This shows bias.

387. **BIAS #287** -- SJ Order Sentence #245: "Alcatraz also knew or should have known that some customers would choose not to enter into or continue

a business relationship with Maid after learning that the Alcatraz vouchers they had purchased were worthless." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8773.) This shows bias.

388. **BIAS #288** -- SJ Order Sentence #246: "The record clearly shows that this is exactly what transpired." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8778.) There is no such evidence before the Court. No one ever testified to this. It is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8779.) This proves bias.

389. **BIAS #289** -- SJ Order Sentence #247: "Many Alcatraz customers expressed their anger to Maid when Maid declined to accept their Alcatraz vouchers at the Maid box office." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8782.) There is no such evidence before the Court. No one ever testified to this. It is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8783.) This shows bias.

390. **BIAS #290** -- SJ Order Sentence #248: "Some customers were so angry that they chose not to enter into a business relationship with Maid and refused to buy tickets from Maid after learning that their Alcatraz vouchers were worthless." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8786.) There is no such evidence before the Court. No one ever testified to this. It is false. Maid breached its valid binding

contract. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8787.) This shows bias.

391. **BIAS #291** -- SJ Order Sentence #249: "For example, customer Jeff Crist testified that he and his wife chose not to buy tickets from Maid after learning that their Alcatraz vouchers were worthless. Crist Aff. 147T24] at ¶ 10-13." This is false. Crist testified that he did not buy tickets because Maid's employee was so rude. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8790.) This proves bias.

392. **BIAS #292** -- SJ Order Sentence #250: "Customer Greg Havens also testified that he and his wife chose not to buy tickets from Maid after learning that their Alcatraz vouchers were worthless. Havens Aff. [#147T25] at ¶¶ 10-13." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8792.) Havens testified that he did not buy tickets because Maid failed to honor his valid vouchers purchased before the July 29, 2005 cut-off. Maid had NO RIGHT under any scenario to deny these vouchers! (MIST-1 Doc. 378 Fifth Declaration of William M. Windsor ¶ 8793.) This proves bias.

393. **BIAS #293** -- SJ Order Sentence #253: "The Court does not find this argument persuasive." Ridiculous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8799.) This proves bias.

394. **BIAS #294** -- SJ Order Sentence #254: "Although both Crist and Havens testified that they did not like the way Maid's staff treated them when

they presented their Alcatraz vouchers, it is impossible to separate their negative feelings as a result of having purchased worthless vouchers from Alcatraz and their negative feelings as a result of Maid's refusal to honor those vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8801.) There is no such evidence before the Court. No one ever testified to this. It is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8802.) This shows bias.

395. **BIAS #295** -- SJ Order Sentence #255: "Neither Crist nor Havens would have been in a situation of conflict with Maid staff had Alcatraz not first represented to them that it was authorized to sell Maid vouchers and had Crist and Havens not purchased those vouchers as a result." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8805.) There is no such evidence before the Court. No one ever testified to this. It is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8807.) This shows bias.

396. **BIAS #296** -- SJ Order Sentence #256: "The record also supports an inference that more customers with Alcatraz vouchers would have walked away without buying tickets from Maid but for the unique nature of the service Maid provides." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8810.) There is no such evidence before the Court. No one ever testified to this. It is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8811.) This proves bias.

397. **BIAS #297** -- SJ Order Sentence #257: "For example, one customer, Sharon Oestereich, submitted an affidavit that she decided not to buy Maid tickets after arriving at the Maid ticket booth and discovering that her prepurchased Alcatraz vouchers were worthless. Oestereich Aff. [# 1 71-2] at ¶¶ 8-10." This is false. A sworn affidavit proves that she did buy Maid tickets. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8814.) This shows bias.

398. **BIAS #298** -- SJ Order Sentence #259: "Additionally, the record shows that Windsor filed a complaint with the Better Business Bureau of South Central Ontario that contained disparaging statements about Maid." This is false. The report was 100% accurate as the documents prove. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8820.) This shows bias.

399. **BIAS #299** -- SJ Order Sentence #260: "Furthermore, Windsor wrote another letter to the Better Business Bureau for a customer, Bruce Lester." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8823.) This shows bias.

400. **BIAS #300** -- SJ Order Sentence #261: "Windsor's complaints, which contained inaccurate and disparaging information as to the relationship between Maid and Alcatraz, may have induced customers who reviewed this complaint not to take a trip to Niagara Falls and not to ride Maid's boats." This is false. My complaints were totally accurate, and there is no such evidence. (MIST-1 Doc. 378 -

Fifth Declaration of William M. Windsor ¶ 8826.) This shows bias.

401. **BIAS #301** -- SJ Order Sentence #262: "Based on the foregoing evidence, the Court finds that Alcatraz induced third parties not to enter into or continue a business relationship with Maid." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8831.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8832.) This proves bias.

402. **BIAS #302** -- SJ Order Sentence #264: "Maid alleges that it suffered financial injury as a result of Alcatraz's actions." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8836.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8837.) This shows bias.

403. **BIAS #303** -- SJ Order Sentence #265: "First, Maid contends that there were at least nine adult customers who purchased vouchers from Alcatraz and refused to buy Maid tickets at the box office when they learned that Maid would not honor the Alcatraz vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8840.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8841.) This was proven false months before the summary judgment with sworn affidavits from the customers that Maid falsely and maliciously claimed "didn't purchase tickets." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8842.) This proves outrageous bias.

404. **BIAS #304** -- SJ Order Sentence #266: "Second, Maid submits that it had to sell tickets at less than face value to Alcatraz customers who had purchased vouchers from Alcatraz at a price lower than Maid's retail rate." This is false. There is no such 30(b)(6) testimony. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8844.) This shows bias.

405. **BIAS #305** -- SJ Order Sentence #267: "Finally, Maid asserts that it was compelled to give customers complimentary tickets and souvenirs to assuage their anger, which was caused by Alcatraz's sale of worthless, overpriced vouchers." This is false. There is no such 30(b)(6) testimony. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8847.) This shows bias.

406. **BIAS #306** -- SJ Order Sentence #275: "As a result, the Court has reviewed the record independently and finds that Maid suffered financial injury as a result of Alcatraz's actions." This is false. There is no evidence of financial injury to anyone but Alcatraz and me. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8871.) RIDICULOUS. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8872.) This again demonstrates a complete lack of impartiality by Judge Evans. She has invented her own facts! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8873.) This proves bias.

407. **BIAS #307** -- SJ Order Sentence #276: "The record shows that at least two customers, Mr.

Crist and Mr. Havens, decided not to buy four Maid tickets after learning that their pre-purchased Alcatraz vouchers would not be honored by Maid. See Crist Aff. at ¶ ¶10-13; Havens Aff, at ¶¶ 10-13." This is false. The record before the court proves this is false. MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8875.) This shows bias.

408. **BIAS #308** -- SJ Order Sentence #277: "The record also shows that Maid issued complimentary tickets to at least one customer, Richard Puglisi, in response to his anger over Maid's refusal to honor his Alcatraz voucher. Puglisi Aff. [#171--5] at ¶¶ 4-5." This is false. Mr. Puglisi provided a sworn affidavit that proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8878.) This shows bias.

409. **BIAS #309** -- SJ Order Sentence #278: "Finally, the record shows that Alcatraz gave at least two angry customers complimentary souvenirs to appease them after Maid refused to honor their Alcatraz vouchers. See Nugent Aff. [#147-16] at 1 11; Madden Aff. [#147-211 at 1 15." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8881.) This shows bias.

410. **BIAS #310** -- SJ Order Sentence #280: "However, the Court finds that Maid would not have been faced with these angry customers and would not have been in a position where it had to mitigate damage to its reputation and good will in this way had Alcatraz not first misrepresented itself to be an authorized seller of Maid vouchers after July 29, 2005. Although these financial injuries to Maid are

minimal, they are sufficient for the purpose of Maid's claim of tortious interference with business relations." This is false. There were no damages. This shows bias.

411. **BIAS #311** -- SJ Order Sentence #282: "The Court finds that there is no question of material fact with respect to Maid's claim that Alcatraz tortiously interfered with Maid's business relations." False! Outrageous! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8890.) This proves bias.

412. **BIAS #312** -- SJ Order Sentence #283: "Maid has proven each of the four elements of tortious interference as a matter of law." False! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8892.) This proves bias.

413. **BIAS #313** -- SJ Order Sentence #284: "Consequently, the Court hereby GRANTS Maid's Motion for Summary Judgment with respect to its tortious interference claim." False and improper! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8894.) This proves bias.

414. **BIAS #314** -- SJ Order Sentence #285: "The Court DENIES Alcatraz's Motion for Summary Judgment." Outrageous. Judicial Misconduct! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8896.) This proves bias.

415. **BIAS #315** -- SJ Order Sentence #287: "Maid does not seek money damages as a result of Alcatraz's tortious interference and instead seeks

only a permanent injunction against future sale of individual vouchers and etickets for Maid tours by Alcatraz, as well as an award of attorney's fees and expenses." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8899.) This shows bias.

416. **BIAS #316** -- SJ Order Sentence #290: "As discussed above, this Court finds that Maid has succeeded on the merits of its tortuous interference claim." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8906.) This shows bias.

417. **BIAS #317** -- SJ Order Sentence #291: "With respect to the two remaining elements required for a permanent injunction to issue, Maid argues that it will suffer irreparable damage to its reputation and goodwill if Alcatraz continues to sell vouchers for Maid rides in the future." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8908.) This shows bias.

418. **BIAS #318** -- SJ Order Sentence #292: "Maid also submits that Alcatraz has expressed its intention to continue selling Maid vouchers." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8911.) This shows bias.

419. **BIAS #319** -- SJ Order Sentence #293: "Maid argues that there is no adequate remedy at law here because the damage caused by Alcatraz to Maid's reputation and good will would be difficult, if

not impossible, to calculate." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8914.) This shows bias.

420. **BIAS #320** -- SJ Order Sentence #294: "The Court finds that a permanent injunction is clearly appropriate in this case." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8917.) This shows bias.

421. **BIAS #321** -- SJ Order Sentence #295: "Windsor's overtly hostile emails and Alcatraz's persistence in selling vouchers for Maid rides even after Maid informed Alcatraz it did not have authorization to do so indicate that Alcatraz would resume sale of Maid vouchers or etickets should the Court lift its preliminary injunction on such sales." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8920.) This shows bias.

422. **BIAS #322** -- SJ Order Sentence #296: "The Court has no doubt as to Windsor's desire to inflict harm on Maid. Alcatraz's sale of Maid vouchers and e-tickets would have the same result now as it did before: angry customers at Maid's box office and irreparable injury to Maid's reputation and goodwill." This is false. There is no evidence of this at all. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8923.) This shows bias.

423. **BIAS #323** -- SJ Order Sentence #297: "Furthermore, the Court finds that legal damages would be inadequate here." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8926.) OUTRAGEOUS! (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 8927.) This shows bias.

424. **BIAS #324** -- SJ Order Sentence #298: "The real injury caused by Alcatraz has not been to Maid's bottom line, but instead has been to Maid's reputation with its customers and with the other parties (such as the Better Business Bureaus and the Attorneys General of New York and Ontario) with whom Alcatraz has spoken about Maid." This is false. Alcatraz did no such thing. There is no such evidence. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8930.) This shows bias.

425. **BIAS #325** -- SJ Order Sentence #299: "Consequently, Maid is entitled to a permanent injunction against Alcatraz's sale of vouchers or e-tickets for rides on Maid's boats at Niagara Falls." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8933.) This shows bias.

426. **BIAS #326** -- SJ Order Sentence #300: "The Court hereby PERMANENTLY ENJOINS Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor, and their affiliates from: selling individual'" vouchers, tickets, and/or etickets for Maid of the Mist boat rides; from using Maid of the Mist's name or images to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from participating in schemes to attempt to sell individual vouchers, tickets, and/or etickets for Maid of the Mist boat rides; and from filing false reports with the Better Business Bureaus of New York and Ontario. [emphasis added]" This is a most improper ruling. (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 8938.) This grants relief that was not even requested by Maid. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8939.) This proves bias.

427. **BIAS #327** -- SJ Order Sentence #301: "Defendants Alcatraz Media, LLC, Alcatraz Media, Inc, and William Windsor and their affiliates are not enjoined from selling tour packages through Gray Line Tours of Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours which include Maid of the Mist tickets or vouchers." Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8941.) This shows bias.

428. **BIAS #328** -- SJ Order Sentence #302: "This applies to all those acting in concert with Defendants or any of Defendants. This includes, but is not limited to : Reserve XL ; Round America, LLC ; Everybody Loves Travel, LLC ; Reserve 123 ; Take 5 Tours ; ZZ Tours ; and those entities using Reserve XL software to sell tours as agents of Alcatraz." Unfair. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8943.) This shows bias.

429. **BIAS #329** -- SJ Order Sentence #309: "Alcatraz argues that in March 2005, Sandra Carlson of Maid orally promised Alcatraz that Maid would honor Alcatraz's vouchers for the 2005 season. Alcatraz contends that this promise was definite and certain, was independent of the credit agreement between the parties and was conditioned upon Alcatraz 's sale of vouchers for Maid tickets."

Incorrect. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8957.) This shows bias.

430. **BIAS #330** -- SJ Order Sentence #311: "Maid asserts that Sandra Carlson made no oral promise to Maid." This is false. There is no such evidence in the record. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶8966.) This shows bias.

431. **BIAS #331** -- SJ Order Sentence #312: "Maid submits in the alternative that even if Carlson did make an oral promise to Alcatraz, that promise is not enforceable as a matter of law because: (1) the agreement between the parties was reduced to writing in the form of the credit agreement; (2) the promise involved the promise of future performance; and (3) the purported promise is too indefinite and uncertain to be enforced." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8970.) Judge Evans should have wondered why Carlson never appeared and why Carlson never denied the oral contract. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8971.) This shows bias.

432. **BIAS #332** -- SJ Order Sentence #314: "The only evidence Alcatraz has submitted to support this counterclaim is the Windsor deposition." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8977.) This shows bias.

433. **BIAS #333** -- SJ Order Sentence #315: "The Windsor deposition contains testimony regarding a conversation between Windsor and Sandra Carlson in March 2005 about the logistics of selling vouchers for Maid tickets." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8981.) Judge Evans is inventing facts that are not before the Court as evidence! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8985.) This proves bias.

434. **BIAS #334** -- SJ Order Sentence #316: "Windsor testified that the following exchange occurred during the course of the conversation: I said look, you know, on the basis of us working that way can we set this up for you and sale [sic] for this season and, you know, are we good to go? And she said yeah. I'm sure I did not say good to go but I said do we have your okay to go forward and sell Maid of the Mist for the 2005 season and she said yes but we need to send you the updated rates and the schedule and information and she, you know, said that would be taken care of and that was the conversation. Windsor Dep. at 81:11-19." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8987.) This is only a small part of the testimony. Judge Evans has pulled this tiny part and ignored all the rest. The March 3, 2005 discussion was for the purpose of obtaining an oral contract for the entire 2005 season. See Exhibit 24 to Amended Dec #3 – MIST-1 Doc. 377. There was a binding oral contract, and Maid breached it. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8988.) Judge Evans is inventing facts that are not before the Court as evidence! (MIST-1

Doc. 378 - Fifth Declaration of William M. Windsor ¶ 8990.) This proves bias.

435. **BIAS #335** -- SJ Order Sentence #320: "Consequently, the Court cannot consider the Carolyn Ballard deposition as evidence to support Alcatraz's promissory estoppel counterclaim." This is very unfair and biased. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9001.) Judge Evans allowed all types of errors and rules violations by the Plaintiffs. The Court could have allowed this deposition to be filed late. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9002.) This shows bias.

436. **BIAS #336** -- SJ Order Sentence #322: "Windsor and Carlson spoke for the purpose of ensuring that Alcatraz understood the proper paperwork to submit to Maid for billing purposes once the 2005 season began." False! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9006.) Judge Evans has manufactured facts here. The word "in" the season was never ever used. The agreement was for the entire 2005 season, and this was crystal clear. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9010.) This proves bias.

437. **BIAS #337** -- SJ Order Sentence #323: "There is no indication from either the context or the words exchanged that Maid intended to establish any kind of binding relationship with Alcatraz for the 2005 season." False! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9014.) Judge Evans has manufactured facts here. The word "in"

the season was never ever used. The agreement was for the entire 2005 season, and this was crystal clear. Maid presented no testimony to dispute the sworn testimony of Alcatraz. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9016.) This proves bias.

438. **BIAS #338** -- SJ Order Sentence #324: "Even if the Court were to construe Carlson's words as a promise by Maid, the promise would be at best a vague, indefinite promise that Alcatraz could sell Maid vouchers in the 2005 season, not for the duration of the 2005 season." False! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9019.) Judge Evans has manufactured facts here. The word "in" the season was never ever used. The agreement was for the entire 2005 season, and this was crystal clear. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9021.) This proves bias.

439. **BIAS #339** -- SJ Order Sentence #325: "The Georgia Court of Appeals has held that "[e]stoppel does not apply . . . to vague, indefinite promises." Mooney v. Mooney, 245 Ga. App. 780, 783 (2000)." False as there was absolutely nothing vague! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9024.) This shows bias.

440. **BIAS #340** -- SJ Order Sentence #326: "Because the Court finds that Alcatraz has submitted no evidence showing Maid made a promise to Alcatraz, the Court finds that Alcatraz cannot prove the first required element of promissory estoppel under Georgia law." False!

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9028.) This proves bias.

441. **BIAS #341** -- SJ Order Sentence #327: "Consequently, the Court GRANTS Maid's Motion for Summary Judgment as to Alcatraz's promissory estoppel counterclaim." False! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9031.) This shows bias.

442. **BIAS #342** -- SJ Order Sentence #331: "Maid argues that the only agreement between the parties was the written credit agreement." FALSE! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9043.) This shows bias.

443. **BIAS #343** -- SJ Order Sentence #332: "Maid contends that the credit agreement was terminable at the will of either contracting party. Maid submits that it lawfully terminated the credit agreement on July 29, 2005." FALSE! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9047.) This shows bias.

444. **BIAS #344** -- SJ Order Sentence #333: "As discussed above, Alcatraz has not submitted any evidence to show that Maid made a promise to Alcatraz regarding Alcatraz's right to sell Maid vouchers." FALSE! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9051.) This proves bias.

445. **BIAS #345** -- SJ Order Sentence #334: "Without such a promise, there can be no oral contract between the parties." This is false. (MIST-1

Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9055.) This proves bias.

446. **BIAS #346** -- SJ Order Sentence #335: "The Court agrees with Maid that the only agreement between the parties was the written credit agreement, which, as the Court discussed in section III.A.1of this order, was validly revoked by Maid as of July 29, 2005. The Court hereby GRANTS Maid's Motion for Summary Judgment with respect to Alcatraz's breach of contract counterclaim." FALSE and IMPROPER! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9059.) This proves bias.

447. **BIAS #347** -- SJ Order Sentence #339: "Maid contends that the statements its employees made to Alcatraz customers do not constitute slander because they were true, they were expressions of opinion, they were conditionally privileged, and they were not made with malice. Georgia Code section 51-5-4 (a) defines the tort of slander to include a statement "imputing to another a crime punishable by law," or, alternatively, a statement "making charges against another in reference to his trade, office, or profession, calculated to injure him therein." To be actionable, however, the statement must be false; truth is always a defense to slander. O.C.G.A. § 51-5-6; Williams v. Trust Co., 140 Ga. App. 49, 50 (1976)." False and outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9071.) This proves bias.

448. **BIAS #348** -- SJ Order Sentence #340: "Additionally, Georgia law recognizes certain

communications as conditionally privileged, including "[s]tatements made with a good faith intent on the part of the speaker to protect his or her interest in a matter in which it is concerned." O.C.G.A. § 51-5-7(3)." Maid cannot defend that there was no malice. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9074.) There was absolutely no admissible evidence before the court on what employees said to customers because none of the employees appeared for depositions. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9075.) This shows bias.

449. **BIAS #349** -- SJ Order Sentence #341: "Conditionally privileged statements cannot constitute slander unless they were uttered with actual malice." Maid cannot defend that there was no malice. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9077.) There was absolutely no admissible evidence before the Court on what employees said to customers because none of the employees appeared for depositions. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9078.) This shows bias.

450. **BIAS #350** -- SJ Order Sentence #342: "The Merriam-Webster dictionary defines 'scam' as 'a fraudulent or deceptive act or operation.'" This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9080.) This shows bias.

451. **BIAS #351** -- SJ Order Sentence #343: "It is clear from the facts of this case that Alcatraz engaged in deceptive acts by representing to online customers that it was an authorized seller of Maid

vouchers after July 29, 2005." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9083.) THIS IS AN OUTRAGE BY JUDGE EVANS. At NO TIME did Alcatraz ever claim to be "an authorized seller." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9084.) This proves bias.

452. **BIAS #352** -- SJ Order Sentence #344: "Alcatraz also deceived customers by selling vouchers to them that it knew were worthless." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9086.) THIS IS AN OUTRAGE BY JUDGE EVANS. Maid was contractually obligated to honor those vouchers. Alcatraz sold vouchers that it knew it had the right to sell, and Alcatraz refunded every customer because it learned that Maid was breaching the contract and abusing Alcatraz's customers. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9087.) This proves bias.

453. **BIAS #353** -- SJ Order Sentence #345: "Alcatraz's deception of its customers falls within the dictionary definition of the word scam." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9089.) THIS IS AN OUTRAGE BY JUDGE EVANS. A scam is properly defined as a swindle. Alcatraz did not swindle anyone, but Maid did. Maid was contractually obligated to honor those vouchers. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9002 and Exhibit 730.) (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9090.) This proves bias.

454. **BIAS #354** -- SJ Order Sentence #346: "Maid's employees, statements to Alcatraz customers who had been deceived by Alcatraz and who believed they had purchased valid vouchers were true and do not constitute slander." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9092.) THIS IS AN OUTRAGE BY JUDGE EVANS. In addition, there was absolutely no admissible evidence before the Court on what employees said to customers because none of the employees appeared for depositions. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9093.) This shows bias.

455. **BIAS #355** -- SJ Order Sentence #347: "Even if the Court were to construe Maid's employees' statements to be false (or only partially true), the statements were conditionally privileged pursuant to O.C.G.A. § 57.-5-7(3)." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9095.) This shows bias.

456. **BIAS #356** -- SJ Order Sentence #348: "The elements of the conditional privilege defense are: "good faith, an interest to be upheld, a statement properly limited in its scope, a proper occasion, and publication to proper persons." Amador v. Thomas, 259 Ga. App. 835, 837 (2003); see also Davis v. Sherwin-Williams Co., 242 Ga. App. 907, 908 (2000)." This does not apply. This demonstrates the extreme bias by Judge Evans. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9097.)

457. **BIAS #357** -- SJ Order Sentence #349: "The Court finds that all elements of the conditional privilege defense are present here." This is false.

(MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9099.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9100.) This proves bias.

458. **BIAS #358** -- SJ Order Sentence #350: "First, Maid's employees in good faith believed Alcatraz to be a scam." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9102.) No employee ever appeared for a deposition, so there was no evidence before the Court. Affidavits presented by Aloian, Lampman, Drouin, and Devereaux were not allowed. This is only hearsay, and it is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9103.) This proves bias.

459. **BIAS #359** -- SJ Order Sentence #351: "Every day in the days and weeks following July 29, - 2005, they were faced with Alcatraz customers who had paid Alcatraz an amount higher than Maid's retail ticket price for individual vouchers that were no longer recognized by Maid." Improper. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9106.) Maid's managers have testified that Alcatraz was at all times free to set its own rates. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9107.) This shows bias.

460. **BIAS #360** -- SJ Order Sentence #352: "Second, Maid had a business interest to be upheld, as these were Maid's customers who wanted to ride Maid's boats, and Alcatraz had interfered in Maid's relationship with them." This is false. (MIST-1 Doc.

378 - Fifth Declaration of William M. Windsor ¶ 9109.) This shows bias.

461. **BIAS #361** -- SJ Order Sentence #353: "Customers who had purchased worthless Alcatraz vouchers were angry at Maid, even though it was not Maid's fault that they had purchased worthless vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9112.) This shows bias.

462. **BIAS #362** -- SJ Order Sentence #354: "Third, the statements were limited in scope, were made on a proper occasion, and were published to proper person." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9115.) This shows bias.

463. **BIAS #363** -- SJ Order Sentence #355: "Maid's employees only told a few of the 894 Alcatraz customers who attempted to redeem worthless vouchers that Alcatraz was a scam, and the statements were made only to Alcatraz customers who actually had been deceived by Alcatraz regarding its status as an authorized seller of Maid vouchers." This is false. The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9118.) This shows bias.

464. **BIAS #364** -- SJ Order Sentence #356: "Finally, there is no evidence in the record to show that Maid's employees made these statements with actual malice." This is unfair. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9121.)

There was no testimony from any Maid employee who dealt with customers as they failed to appear for depositions. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9122.) This shows bias.

465. **BIAS #365** -- SJ Order Sentence #357: "For the foregoing reasons, the Court finds that Alcatraz has failed to show there is an question of material fact with respect to whether Maid's employees slandered Alcatraz by calling it a 'scam.'" This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9124.) Alcatraz most definitely made the required showing. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9125.) This proves bias.

466. **BIAS #366** -- SJ Order Sentence #358: "The Court hereby GRANTS Maid's Motion for Summary Judgment with respect to Alcatraz's slander counterclaim." Biased and unfair. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9127.) This shows bias.

467. **BIAS #367** -- SJ Order Sentence #360: "Alcatraz alleges that Maid violated the Georgia Fair Business Practices Act ("FBPA"), O.C.G.A. § 10-1-391 et segue, by making false representations that Alcatraz was a "scam" to Alcatraz customers and by discriminating against Alcatraz in mandating that Alcatraz raise ticket prices and requiring that Alcatraz make disclosures not required of other sellers of Maid tickets . Maid argues that the FBPA does not apply here, because Alcatraz's relationship with Maid is a wholly private transaction between merchants." This is false. (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 9131.) This shows bias.

468. **BIAS #368** -- SJ Order Sentence #362: "The Court finds that Alcatraz's FBPA claims do not serve the public interest or implement the purposed of the FBPA." Unfair and biased. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9136.) This shows bias.

469. **BIAS #369** -- SJ Order Sentence #363: "In fact, Alcatraz's FBPA claims directly contravene the FBPA. Alcatraz's FBPA claim against Maid is premised upon the notion that Alcatraz should be able to charge its customers ten dollars or more above the retail ticket price for vouchers to ride on Maid's tour boats and that Alcatraz should not have to reveal Maid's retail price to its customers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9138.) UTTERLY OUTRAGEOUS! Judge Evans seems to have no understanding of how the business world functions. There was no testimony from any Maid employee who dealt with customers as they failed to appear for depositions. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9140.) This shows bias.

470. **BIAS #370** -- SJ Order Sentence #364: "It is also Alcatraz's assertion that Maid should not be allowed to warn consumers that Alcatraz overcharged them or sold them worthless vouchers." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9142.) This proves bias.

471. **BIAS #371** -- SJ Order Sentence #365: "This is simply not the situation the Georgia legislature contemplated when it enacted the FBPA." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9145.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9146.) This shows bias.

472. **BIAS #372** -- SJ Order Sentence #366: "Consumers of Maid tickets are protected from unfair or deceptive acts if Alcatraz's claims are denied, not the other way around." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9148.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9149.) This shows bias.

473. **BIAS #373** -- SJ Order Sentence #367: "The Court concludes that Alcatraz cannot state a claim under the Georgia FBAA as a matter of law." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9153.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9154.) This shows bias.

474. **BIAS #374** -- SJ Order Sentence #368: "Consequently, Maid's Motion for Summary Judgment is GRANTED with respect to Alcatraz's FBPA counterclaim." Unfair. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9157.) This shows bias.

475. **BIAS #375** -- SJ Order Sentence #370: "Maid asserts that it is entitled to attorney's fees and expenses pursuant to O.C.G.A. § 13-6-11." The

assertion is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9161.) This shows bias.

476. **BIAS #376** -- SJ Order Sentence #376: The first full paragraph of Count II states: "Defendants have acted, or failed to act, in bad faith, have been stubbornly litigious and/or have caused Maid unnecessary trouble and expense." Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9173.) This proves bias.

477. **BIAS #377** -- SJ Order Sentence #377: "Accordingly, Maid is entitled to recover attorney's fees and costs of litigation pursuant to O.C.G.A. § 13-6-11. Id. at T 75." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9175.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9176.) This shows bias.

478. **BIAS #378** -- SJ Order Sentence #380: "There are no issues of fact remaining in this case for determination by a jury." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9182.) There were fact issues, and this matter could not be resolved as a "matter of law." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9183.) This proves bias.

479. **BIAS #379** -- SJ Order Sentence #381: "The Court holds that Maid is entitled to judgment as a matter of law on all claims." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9184.) There were fact issues at the very least, and this matter could not be resolved as a

"matter of law." (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9186.) This proves bias.

480. **BIAS #380** -- SJ Order Sentence #382: "Furthermore, the Court finds that Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's credit authorization was clearly stubbornly litigious." FALSE!!! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9188.) Judge Evans invented facts to fit her improper motives. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9190.) This proves bias.

481. **BIAS #381** -- SJ Order Sentence #383: "From Mr. Windsor's emails threatening to sue Maid and seeking four million dollars in damages, to the complaints filed with the Attorneys General and Better Business Bureaus, to Alcatraz's treatment of Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005, the Court finds it was Alcatraz's and Windsor's stubbornly litigious actions that gave rise to this litigation." FALSE!!! The record before the court proves this is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9192.) This is an outrage by Judge Evans. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9194.) This proves bias.

482. **BIAS #382** -- SJ Order Sentence #384: "This is a straightforward, simple case that Alcatraz and Windsor have unduly complicated and prolonged as a result of harboring hostile personal feelings against Maid." FALSE! (MIST-1 Doc. 378 - Fifth

Declaration of William M. Windsor ¶ 9196.) Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9197.) There is nothing simple and straightforward about this case. This demonstrates EXTREME BIAS by Judge Evans. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9198.) The Defendants did nothing to complicate or prolong this case. Absolutely ridiculous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9199.) This shows bias.

483. **BIAS #383** -- SJ Order Sentence #385: "It is and always has been obvious that Alcatraz has no right to force Maid to accept it as its agent for ticket sales." This is false. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9201.) This shows bias.

484. **BIAS #384** -- SJ Order Sentence #386: "Accordingly, the Court GRANTS Maid's Motion for Summary Judgment with respect to Maid's O.C.G.A. § 13-6-11 claim for attorney's fees and expenses." Outrageous! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9204.) This shows bias.

485. **BIAS #385** -- SJ Order Sentence #390: "The Court finds that a hearing is not necessary and hereby DENIES Alcatraz's request." Unfair and demonstrates the extreme bias that Judge Evans showed in favor of Maid. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9214.) This shows bias.

486. **BIAS #386** -- SJ Order Sentence #393: "Because the Court finds that these declarations

were not necessary for deciding the parties' motions for summary judgment, the Court DISMISSES AS MOOT Maid's Motion to Strike." These declarations were vital to the Defendants' case at summary judgment! Not considering these is a violation of the rights of the Defendants and a violation of the rules. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9221.) This shows bias.

487. **BIAS #387** -- SJ Order Sentence #395: "Because the Court finds that these declarations were not necessary for deciding the parties' motions for summary judgment, the Court DISMISSES AS MOOT Alcatraz's Motion to Strike." Judge Evans was biased for Maid as always. Judge Evans had previously ruled that these would not be allowed, and the Rules provide that this is to be the case. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9225.) This shows bias.

488. **BIAS #388** -- SJ Order Sentence #398: "Raley's affidavit is not necessary for deciding the parties' motions for summary judgment. The Court hereby DISMISSES AS MOOT Maid's Motion to Strike." Judge Evans was biased for Maid as always. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9231.) This shows bias.

489. **BIAS #389** -- SJ Order Sentence #400: "For the foregoing reasons, Defendants' Motion for Summary Judgment [#146] is DENIED." Outrageous! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9235.) This shows bias.

490. **BIAS #390** -- SJ Order Sentence #401: "Plaintiffs' Motion for Summary Judgment [#148] is GRANTED." Outrageous! (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9237.) This shows bias.

491. **BIAS #391** -- SJ Order Sentence #403: "This applies to all those acting in concert with Defendants or any of Defendants. This includes, but is not limited to: Reserve XL; Round America, LLC; Everybody Loves Travel, LLC; Reserve 123; Take 5 Tours; ZZ Tours; and those entities using Reserve XL software to sell tours as agents of Alcatraz." Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9241.) This shows bias.

492. **BIAS #392** -- SJ Order Sentence #405: "With respect to Maid's O.C.G.A. § 13-6-11 claim for attorney's fees and expenses, the Court DIRECTS Maid to file an itemization of its claim for attorney's fees and expenses within twenty days of the date of this Order." Outrageous. (MIST-1 Doc. 378 - Fifth Declaration of William M. Windsor ¶ 9245.) This shows bias.

493. **BIAS #393** -- SJ Order Sentence #409: "Defendants' request for a hearing on the summary judgment motions [#223] is DENIED. Plaintiffs' Motion to Strike [#237] is DISMISSED AS MOOT. Defendants' Motion for Leave to File L#241] and Motion for Clarification and to Strike [#243] are DISMISSED AS MOOT. Plaintiffs' Motion to Strike Affidavit [#250] is DISMISSED AS MOOT." More biased actions by Judge Evans. (MIST-1 Doc. 378 -

Fifth Declaration of William M. Windsor ¶ 9253.) This shows bias.

494. **BIAS #394** -- Maid sued Windsor personally. The claims were false and malicious, but Judge Evans ignored it. (MIST-1 Doc.377-Amended_Dec#3-Exh.1:Pg.1-158,Exh.2.) Maid and Maid attorneys knew the claims were false. Ruddy testified that Windsor should not have been included in sworn claims in Glynn's affidavit and verification. (MIST-1 Doc.377-Amended_Dec#3-Exh.1,Exh.2;Doc.90-Pgs.27,28,35.) Maid never produced any evidence of any valid legal claim against Windsor. (MIST-1 Doc.377-Amended_Dec#3-Exh.28:¶¶11101-11122.) Maid never amended the Verified Complaint. (MIST-1 Docket). Judge Evans did not find me liable for tortious interference, the only claim asserted by Maid. (MIST-1 Doc.251:Pg.32.) Yet Judge Evans made me individually liable for approximately $445,000 in legal fees and court costs. (MIST-1 Doc.251:Pg.43-44; MIST-1 Doc.325.) This proves bias.

495. **BIAS #395** -- It was inconceivable that Judge Evans could rule that there was no oral contract based solely upon my testimony. My deposition testimony and affidavits were quite clear about the oral contract. I believe the fact that Judge Evans ignored my testimony about the oral contract demonstrates a complete void of impartiality by Judge Evans, and this was a devastating case of unfairness to Alcatraz and me. On August 9, 2007, on the key issue in MIST-1, the oral contract, Judge Evans ruled just the opposite of what the evidence before the court clearly showed the facts to be.

According to my understanding of the law, Judge Evans should not have been deciding the facts, and this is an outstanding example of the improper actions of Judge Evans. A careful examination of the record in MIST-1 indicates that the evidence is overwhelming that there was an oral contract. Exhibit 4 to my Dec #2[88] is a chart that I prepared to visually display the evidence that was before Judge Evans on this issue. Maid presented no admissible evidence to indicate there was not an oral contract. The verified complaint in MIST-1 was the only evidence before the court on this issue. Glynn swore: "Maid is unaware of any contract with Defendants."[89] This evidence is, however, more than offset by Schul who admitted in his deposition testimony that there was written documentation between Maid and Alcatraz and a written agreement. Schul could not dispute that an oral agreement also existed.[90] Maid could offer no evidence that there was not an oral contract for the entire 2005 season: "Maid has no proof that Maid did not make a promise to allow Alcatraz to sell throughout the 2005 season."[91] Maid's participant in the oral contract, Sandra Carlson ("Carlson") said she could not remember: 30(b)(6) testimony from Ruddy was: "Q. When you spoke with Sandra Carlson prior to the deposition,

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[88] MIST-1 Doc. 361.

[89] MIST-1 Doc. 1 -- Paragraph 31 of the Complaint for Injunctive Relief filed August 29, 2005.

[90] MIST-1 Doc. 133 and 160 -- Deposition of Robert Schul, Pages 93 to 98.

[91] MIST-1 Doc. 90 and 132 -- Deposition of Timothy Ruddy ("Ruddy") as the corporate designee for Maid of the Mist Steamboat Company, Ltd., Page 205 Lines 15-25, Page 206 Lines 1-3, Page 206 Lines 4-25.

did you ask her whether or not she made any promises to Alcatraz? A. I asked her to recall all communications she had with Alcatraz and she did not mention any communication regarding a promise to operate throughout 2005. Q. She didn't specifically say that she had not made a promise. She just didn't -- A. State that she did. Correct." [92] Judge Evans invented a story about the oral contract that the record before the court proves to be false. This shows bias.

496. **BIAS #396** -- Carlson of Maid entered into the oral contract with Alcatraz on March 3, 2005. Carlson did not appear for a deposition, and Judge Evans ruled on February 2, 2007 that her testimony would not be allowed.[93] In the SJ Order, Judge Evans stated that she did not consider the Affidavit of Carlson that was submitted as part of Maid's summary judgment filing.[94] When reading the affidavit carefully, a literal reading of the words Carlson used in the affidavit did not deny that there was an oral contract.[95] During a hearing on February 2, 2007, Judge Evans ruled that the Maid entities could not rely upon affidavit testimony submitted by witnesses that the Maid entities had failed to make available for deposition. These witnesses included, but were not limited to, ticket supervisors Vanik Aloian, Jim Lampman, Rose Devereaux and Holly Drouin; and Carlson. Although the District Court's February 2, 2007,

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[92] MIST-1 Doc. 90 and 132 -- Deposition of Steamboat by Timothy P. Ruddy -- Page 205, lines 20-25, Page 206,Lines 1-3.
[93] MIST-1 Doc. 174 -- Page 62, Lines 4-5.
[94] Summary Judgment Order, Vol. 17, Doc. 251, p. 44.
[95] Exhibit 15 to Amended Dec #3 – MIST-1 Doc. 377.

ruling seemed clear, Alcatraz filed a Motion for Clarification and Motion to Strike[96] in conjunction with its summary judgment opposition, seeking confirmation that Judge Evans would not consider the affidavits. Judge Evans ruled on August 9, 2007, that the Motion for Clarification and Motion to Strike was "moot" "[b]ecause the Court finds that these declarations were not necessary for deciding the parties' motions for summary judgment . . . ." [97] There was, therefore, a total lack of evidence to support the summary judgment. The truth is that Judge Evans said the affidavits were not considered but she used the information as if it had been admissible. That Judge Evans ruled that the affidavits were not considered but she then used the information as if it had been admissible proves bias and dishonesty. In the 30(b)(6) deposition of Ruddy, he stated that Carlson could not remember any conversations in March 2005.[98] With no admissible testimony from the person involved, Maid could not dispute that there was an oral contract. There was extensive evidence from A&W that there was the oral contract for the entire 2005 season. See Exhibit 24 to Amended Dec #3[99] for complete proof of the oral contract with citations to the record. I testified in our Verified Answer and Counterclaim,[100] in depositions[101] and in one or more affidavits [102] that

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[96] MIST-1 Doc. 243.
[97] MIST-1 Doc. 251, p. 44.
[98] MIST-1 Doc. 90 and 132 -- Page 206, Lines 15-17.
[99] MIST-1 Doc. 377.
[100] MIST-1 Doc. 3.
[101] MIST-1 Doc. 153 -- Deposition of William M. Windsor, P 73: 16-25, P 74: 1-24, P 79: 9-25, P 80: 1-25, P 81: 1-19; MIST-1 Doc. 153 -- Deposition of William M. Windsor, P 82: 12-21,

there was an oral contract between Maid and Alcatraz for the entire 2005 season. I spoke with Carolyn Ballard Bazzo ("Bazzo") in March 2005, and she told me that Carlson had essentially the same conversation with her that Carlson had with me. Bazzo told me that Carlson entered into a contract to allow Alcatraz to sell for the 2005 entire season. All of it. Bazzo testified in her deposition that there was an oral contract for the 2005 season.[103] Yet Judge Evans wrote in the Summary Judgment Order that the only proof was that Alcatraz had an oral contract to buy and resell tickets "in the 2005 season." A&W never used the word "in," and Maid had no testimony whatsoever. Judge Evans made this up, and it demonstrates extreme bias.[104] Houghton Mifflin Dictionary defines the word "for" to mean "used to indicate amount, extent, or duration." Therefore, "for the 2005 season" means "for the duration of the 2005 season." Houghton Mifflin Dictionary defines "in" as "within the limits, bounds, or area of." "For" and "in" have totally different meanings, and the word "in" was never used by Alcatraz or me in describing what the agreement was between Maid and Alcatraz. Judge Evans was not impartial, and she took the oral contract where Maid had no evidence, and she literally invented the facts to fit the needs of Maid. Judge Evans' handling of the oral contract is one of the most significant examples of the lack of impartiality of Judge Evans in MIST-1.

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[102] MIST-1 Doc. 222-5 -- Declaration of William M. Windsor dated May 30, 2007 – Page 2 ¶ 6.

[103] MIST-1 Doc. 269 -- Deposition of Carolyn Ballard Bazzo, P 93: 11-25, P 94: 1-7, P 96: 22-25, P 97: 1-25, P 98: 1-25, P 99: 1-25, P 100: 1-24 and Exhibit B-25.

[104] MIST-1 Doc. 251and 252 -- Page 37.

The oral contract was the issue upon which the entire case in MIST-1 centered. If there was an oral contract, Alcatraz and I did nothing wrong in MIST-1. If there wasn't an oral contract, Alcatraz and I were at fault in MIST-1. There was an oral contract. This proves bias.

497. **BIAS #397** -- One of the clearest rules in law is the basic rule that governs summary judgments. There can be no disputed facts. A summary judgment must be awarded only when the case may be decided based upon law applied to undisputed facts. Judge Evans ignored this iron-clad rule on summary judgments to issue a Summary Judgment against Alcatraz and me. When a reasonable person reviews the record in MIST-1, there can be no question that the impartiality of Judge Evans must be doubted.

498. **BIAS #398** -- I discovered new evidence that establishes that Carlson lied about what happened on March 3, 2005, and it establishes that claims made by Maid in this regard were false. After discovery closed and after summary judgment, I was cleaning out my basement when I found a March 3, 2005 fax from Carlson of Maid to me. Carlson faxed 2005 Rates, 2005 Schedule, and 2005 Group Policy to me on March 3, 2005. The rates indicated that they were subject to change. The fax said "as requested." This fax is Exhibit 9 to Dec #2.[105] Carlson's claim in her affidavit in MIST-1 that she didn't even know my name until August 2005 was a lie. Maid never produced the March 3, 2005 fax from Carlson of

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[105] MIST-1 Doc. 361.

Maid to me. Wasn't that convenient for them. Judge Evans ignored this proof and stated in an order that I discovered this proof prior to summary judgment, which is complete and total perjury. She made this up to defeat one of the grounds for reopening the case under Rule 60(b). This proves bias.

499. **BIAS #399** -- The United States Constitution guarantees an unbiased judge who will always provide litigants with full protection of ALL RIGHTS. Judge Evans was not fair and did not hear MIST-1 in a fair and impartial manner. Judge Evans has ignored the law in MIST-1. I believe that Judge Evans has conveniently ignored the law and the facts to cause MIST-1 to have the outcome that she decided she wanted before she ever heard much of anything from Alcatraz and me. Ignoring the law and the facts to cause MIST-1 to have the outcome that she decided she wanted before she ever heard much of anything from Alcatraz and me demonstrates a lack of impartiality by Judge Evans.

500. **BIAS #400** -- The "competition privilege" should have provided another complete defense to Maid's claim of intentional interference with prospective economic advantage, as Alcatraz did not commit an unlawful or illegitimate act. Judge Evans refused to consider the competition privilege in MIST-1. Refusing to consider the competition privilege in MIST-1 indicates bias.

501. **BIAS #401** -- At summary judgment in MIST-1, anything relative to customers should have been hearsay as none of the Maid deponents had

relevant customer dealings. Judge Evans made various false claims about customers in her Summary Judgment Order, most of which was hearsay and should not have been considered much less quoted in her SJ Order. Judge Evans has reportedly been a federal judge for 30 years. Judge Evans' abuse of the FRE on hearsay in MIST-1 must be accepted as proof of pervasive bias. There was ZERO evidence before Judge Evans from Maid to dispute the existence of an oral contract for the entire 2005 season. Yet Judge Evans wrote in the SJ Order that the only proof was that Alcatraz had an oral contract to buy and resell tickets "in the 2005 season." As explained above, this is TOTALLY FALSE. I challenge Judge Evans to show Alcatraz and me and this Court where in the record she claims to have gotten this information from. Judge Evans will be unable to show where in the record there is proof that Alcatraz had an oral contract to buy and resell tickets "in the 2005 season." In fact, Judge Evans is on the record stating that our position in March 2006 when she was assigned the case was that Alcatraz had a contract with Maid to sell tickets throughout the entire season.[106] I believe Judge Evans made up that the only proof was that Alcatraz had an oral contract to buy and resell tickets in the 2005 season to suit her improper purposes. I see this as one of the most significant examples of the lack of impartiality of Judge Evans in MIST-1. I know there was an oral contract between Maid and Alcatraz for the entire 2005 season, because I discussed it in detail with Carlson on March 3, 2005. I represented Alcatraz and

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[106] See MIST-1 Doc. 10.

entered into the contract with Carlson representing Maid. This proves bias.

502. **BIAS #402** -- Judge Evans never indicated in any manner that Alcatraz couldn't obtain tickets and distribute them to Alcatraz's customers during either of the only two hearings ever held in MIST-1. Judge Evans simply said at the PI Hearing that the sources for the tickets sounded "iffy." There was no way for me to interpret that Judge Evans meant anything other than to say "if you had a proven source for tickets, you will win, but I'm not so sure you can get the tickets." This is very important because I stated very clearly to Judge Evans at the February 2, 2007 hearing that I had gone to Niagara Falls to prove it wasn't "iffy," had purchased a ticket, and I reached in my pocket and pulled out the ticket so I could prove it to the Court. This is shown in the transcript of the February 2, 2007 hearing.[107] The ticket purchased by me is Exhibit 19 to Dec #2 – MIST-1 Doc. 361. Exhibit 20 to Dec #2 Dec #2[108] is another ticket that I purchased from another source - Vacations Made Easy. So, there wasn't anything "iffy" about it. Alcatraz could obtain tickets directly from Maid for its customers or from others who obtained them from Maid. Yet in Judge Evans' SJ Order for Maid, she states that there was never any proof offered to show that Alcatraz had obtained tickets. This simply isn't true. Judge Evans changed her reasoning when Alcatraz and I proved key claims in MIST-1 to be false. Judge Evans initially expressed that Alcatraz

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[107] MIST-1 Doc. 174.
[108] MIST-1 Doc. 361.

did not have a source for tickets. This was false, and Alcatraz and I produced proof. Judge Evans then changed to claiming that Alcatraz could not sell tickets if Maid didn't want them to. The law and common practice indicate just the opposite to be true. Alcatraz did not need Maid's approval to sell their tickets. Then in Judge Evans' SJ Order, she stated that there was never any proof offered to show that Alcatraz had obtained tickets. This simply isn't true. And furthermore, the issuance of tickets by Alcatraz was not the subject of any pleadings or motion before Judge Evans at any time. Maid sought to have Alcatraz and me restrained from selling or attempting to sell Vouchers (defined as a document presented to Maid in lieu of payment) for tickets for Maid's services. Details about the sources Alcatraz had for Maid tickets are detailed in Exhibit 27 to Amended Dec #3 – MIST-1 Doc. 377. This shows bias.

503. **BIAS #403** -- The SJ Order misstated the findings that could be made by Judge Evans based upon the evidence presented. An analysis reveals that the SJ Order contains 416 sentences. I believe that as many as TWO HUNDRED AND TEN (210) of the 416 statements by Judge Evans in the SJ Order are false or incorrect or are conclusions based on false statements. The false statements in the SJ Order are addressed in paragraphs 9561 to 10852 of Dec #25 – MIST-1 Doc. 462. For more proof of how false and improper the SJ Order is, see Exhibits 7 and 9 to Amended Dec #3 – MIST-1 Doc. 377. All exhibits to Amended Dec #3 (MIST-1 Doc. 377) prove how false and improper this order is. This proves bias.

504. **BIAS #404** -- I believe that Judge Evans committed perjury by signing the SJ Order with these alleged facts that are false. Judge Evans had the evidence before her, and she stated in the SJ Order that she rejected the statements of fact presented by the parties in their summary judgment filings, and she said she drafted the facts based on the evidence that she reviewed. This is absolutely false. Judge Evans invented facts and made statements in the SJ Order that are proven to be false by the evidence that was before the court. The SJ Order was signed by Judge Evans while under her oath of office as a judge and as a member of the State Bar of Georgia. I believe the false statements in the SJ Order constitute perjury as well as fraud upon the courts. Judges are not supposed to make mistakes. I believe that at least one law clerk to Judge Evans was involved in the scheme to use false information in the Summary Judgment Order ("SJ Order"). As many as 210 false statements in Judge Evans' SJ Order are much worse than a mistake. 210 false statements in Judge Evans' SJ Order are criminal. This proves bias.

505. **BIAS #405** -- Judge Evans granted a summary judgment to Maid on tortious interference with alleged damages of less than $100, though (1) Alcatraz and I provided sworn affidavits from the four customers involved who allegedly did not spend $100, and each swore that they did buy tickets from Maid, so there were no damages, and (2) the only sworn testimony before the court was that there was an oral contract breached by Maid, and thus there was no tortious interference by Alcatraz. The Summary

Judgment in MIST-1 was totally improper. This proves bias.

506. **BIAS #406** – Alcatraz and I proved with sworn affidavits that the damages claimed by Maid were bogus, but Judge Evans ignored this and let Maid introduce a new claim of damages after discovery had closed at the summary judgment. If all of this doesn't demonstrate a lack of impartiality by Judge Evans, what in the world would it take?

507. **BIAS #407** -- The Summary Judgment in favor of MOTM in MIST-1 was especially improper, because MOTM did not present any damages. Granting a summary judgment for MOTM on tortious interference in MIST-1 demonstrates a complete lack of impartiality by Judge Evans.

508. **BIAS #408** -- FRCP Rule 37(c) (1) says: "If a party fails to provide information or identify a witness as required by Rule 26(a) or 26(e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." This means that the declarations of Aloian, Lampman, Drouin, Devereaux, Carlson, and others should have been ordered inadmissible without any question. Judge Evans did not issue this mandatory ruling required by FRCP Rule 37(c) (1). Judge Evans's failure to issue this mandatory ruling required by FRCP Rule 37(c) (1) proves bias.

509. **BIAS #409** -- The effect of Judge Evans' summary judgment ruling would be to make a new law that makes the actions of ticket brokers,

consumers, and travel agents illegal, AND subjects them to pay the legal expense of the events, attractions, and services that choose to sue them. This is not right! This demonstrates a lack of impartiality by Judge Evans.

510. **BIAS #410** -- Judge Evans also erred in granting a summary judgment for Maid on Alcatraz's breach of contract claim as Alcatraz proved that Maid billed and collected from Alcatraz for services that Maid promised to provide in exchange for payment but did not provide for Alcatraz's customers. That Judge Evans erred in granting a summary judgment for Maid on Alcatraz's breach of contract claim demonstrates a lack of impartiality by Judge Evans. This is outrageous.

511. **BIAS #411** -- The SJ Order in MIST-1 is based upon false information and a distorted view of the record. I have prepared a document[109] analyzing each and every sentence in the SJ Order and providing the evidence of the false statements. The false statements in the SJ Order demonstrate the lack of impartiality of Judge Evans. I don't know what to call what Judge Evans did with her alleged facts on the Better Business Bureau. There wasn't really any hearsay on the Better Business Bureau; she just invented a story and a claim. Judge Evans made up her alleged facts on the Better Business Bureau. There was no testimony and no evidence about what Judge Evans ruled about the Better Business Bureau. The only evidence before Judge

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[109] Exhibit 22 to Amended Dec #3 -- MIST-1 Doc. 377.

Evans about the Better Business Bureau totally disproved what she invented for her order.[110] This shows bias.

512. **BIAS #412** -- Judge Evans ruled against Alcatraz and me on one issue after another even when Maid had admitted fault. This indicates bias.

513. **BIAS #413** -- Judge Evans considered affidavits for Maid that should not have been considered. Judge Evans stated in her SJ Order that she would not use the affidavits from Maid employees but she then used the information in the order. That Judge Evans stated in her SJ Order that she would not use the affidavits from Maid employees but then did demonstrates a lack of impartiality by Judge Evans. Judge Evans considered testimony that was not to be considered in MIST-1.

514. **BIAS #414** -- Judge Evans erred in granting a summary judgment on Alcatraz's slander claim. Alcatraz clearly documented damages to it by wrongful actions of Maid. The slander was clearly shown -- repeated, abusive cases of slander. Absolutely false, damaging, mean, vindictive statements made by Maid's employees with Maid's authorization. On August 9, 2007, Judge Evans found that the Motion for Clarification and Motion to Strike was "moot" "[b]ecause the Court finds that these declarations were not necessary for deciding the parties' motions for summary judgment . . . ." [111]

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[110] Exhibit 26 to Amended Dec #3 – MIST-1 Doc. 377.
[111] Order, Doc. 251 p. 44.

That Judge Evans ruled that these declarations were not necessary for deciding the parties' motions for summary judgment demonstrates extreme bias because there was a major lack of evidence to support the summary judgment. The truth of the matter is that there is no way that Judge Evans made the statements that she made in the SJ Order without improperly using these inadmissible affidavits. This shows bias.

515. **BIAS #415** -- On August 9, 2007, Judge Evans included alleged facts in her SJ Order in favor of Maid that were "facts" not presented by Maid, Alcatraz, or me. This demonstrates a lack of impartiality by Judge Evans.

516. **BIAS #416** -- Judge Evans made fact decisions in a jury trial case. A jury was supposed to decide the facts in this case. Alcatraz and I requested a jury trial. On the key issue in the case, the oral contract, Judge Evans ruled just the opposite of what the evidence before the court clearly showed the facts to be. Judge Evans should not have been deciding the facts, and an outstanding example of the improper actions of Judge Evans and the necessity of her recusal is how she treated the most important issue in the case. This shows bias.

517. **BIAS #417** -- On August 9, 2007, Judge Evans made improper fact decisions in MIST-1. I have read a lot about this because he found it inconceivable that a 30-year federal judge could rule on summary judgment when the central issue in the case was an undeniable fact issue. It was like I said something is black and had a photograph showing it

was black. Maid's testimony that the President of Maid did not have any knowledge that it was black was ruled inadmissible. Judge Evans then ruled there was no fact issue because it was white. This shows bias.

518. **BIAS #418** -- On August 9, 2007, Judge Evans said Alcatraz and I were stubbornly litigious. Judge Evans claimed Alcatraz and I expanded the litigation by including the customers. This Court is encouraged to review the record. The record will prove that Alcatraz and I did nothing stubbornly litigious! Alcatraz and I were the defendants. I am just a Dad. There was no basis whatsoever for me to be included personally. Alcatraz and I did nothing but attempt to get needed discovery. Alcatraz and I were right and were 100% truthful. Maid was wrong and provided thousands of false statements. On August 9, 2007, Judge Evans ruling on attorneys' fees in MIST-1 was overturned by the Court of Appeals. They got it half right at least. Judge Evans' ruling on attorneys' fees was wrong. Judge Evans denied a hearing on attorneys' fees in MIST-1 and ignored the law as she did throughout the proceeding. This shows bias.

519. **BIAS #419** -- Alcatraz and I believe the only reason Judge Evans awarded attorneys fees in MIST-1 is because she was so biased against Alcatraz and me that she wanted to punish us. This demonstrates a lack of impartiality by Judge Evans. On August 9, 2007, the award of attorney's fees and expenses to Maid in MIST-1 definitely demonstrates the bias of Judge Evans for Maid and antagonism toward me. There was no basis for such an

outrageous position for Maid at summary judgment. The summary judgment ruling for Maid in MIST-1 showed Terminal Bias.

520. **BIAS #420** -- In her SJ Order, Judge Evans was not impartial, and she took a situation where Maid had no evidence, and she literally invented the facts to fit the needs of Maid. This shows bias.

521. **BIAS #421** -- Maid failed to provide citations for a significant number of what they falsely claimed to be undisputed facts in Maid's summary judgment filings, but Judge Evans ignored it. This shows bias.

522. **BIAS #422** – Alcatraz's attorney made a mistake and failed to file the Bazzo deposition though the testimony was cited in detail in the summary judgment response. Judge Evans would not allow the Bazzo deposition to be late filed. This demonstrates a lack of impartiality by Judge Evans and a bias for Maid.

523. **BIAS #423** -- In her SJ Order, Judge Evans repeatedly went against her own rulings to the detriment of Alcatraz and me. Judge Evans showed Pervasive Bias in MIST-1.

524. **BIAS #424** -- Maid's Initial Disclosures[112] in MIST-1 stated that Maid would have only five (5) witnesses from Maid and two customers of Alcatraz. Maid's interrogatory answers

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[112] MIST-1 Doc. 40.

in MIST-1 stated that Maid would have only six witnesses – Glynn, Robert Schul, Timothy Ruddy, Jonathan Schultz, and Sandra Carlson from Maid plus Judy Berry. Fourteen months later, 16 witnesses not on this interrogatory list or in Maid's Initial Disclosures appeared in Maid's summary judgment filings after Maid refused to produce many of these people for depositions. Judge Evans did not rule that what Maid did was wrong. Not ruling that what Maid did was wrong in the appearance of 16 witnesses at summary judgment proves bias by Judge Evans.

525. **BIAS #425** -- Judge Evans never seemed to be bothered with the facts, so she simply ruled that MOTM had also proven damages and thus tortious interference. This must be seen as obvious bias.

526. **BIAS #426** -- In her SJ Order, Judge Evans states that there was never any proof offered to show that Alcatraz had obtained tickets. This simply isn't true. I bought Maid tickets from two sources. I told Judge Evans in the hearing on February 2, 2007 that I had brought the Maid tickets to show her. Mr. Raley included this in his summary judgment filing. Pervasively biased Judge Evans ignored the uncontroverted facts and invented facts to the contrary in her SJ Order.

527. **BIAS #427** -- On October 30, 2007, Maid filed a Motion for Attorneys' Fees and Expenses of Litigation Under 28 U.S.C. § 1927 and

the Court's Inherent Powers.[113] Maid's Motion for Attorneys' Fees and Expenses of Litigation Under 28 U.S.C. § 1927 and the Court's Inherent Powers was filled with false statements. I am not an attorney (as is required of the target of a 1927 motion), but this October 30, 2007 motion was improperly filed against me. It cost me over $20,000 to respond to this improperly filed October 30, 2007 motion. Judge Evans took no action against Maid or Maid's Attorneys over the October 30, 2007 motion. This shows bias.

528. **BIAS #428** -- Alcatraz and I reached an out-of-court settlement with Maid in December 2008 to stop the legal expense in MIST-1 at approximately $1,000,000. This was done solely out of fear of what Judge Evans would do to Alcatraz and me next and the projected $50,000 to $100,000 in legal fees to appeal again along with the possibility of having to pay Maid's legal fees for the appeal as well. Yes, it cost Alcatraz and me over one million dollars in legal fees on a bogus claim of $100 in damages in MIST-1. Alcatraz and I refused to provide and did not provide releases to Maid or Maid's Attorneys in MIST-1. This shows bias.

529. **BIAS #429** – Judge Evans failed to rule on our legitimate and necessary motions while at the same time ruling on Maid's motions in a manner that favored them and was inconsistent with the rules. This shows bias.

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[113] MIST-1 Doc. #299.

530. **BIAS #430** – I don't understand how Judge Evans could possibly rule as she has in this case. It is one thing to have a legal dispute and lose because you can't prove what happened or some stupid legal issue beats you. It's another deal entirely to be cheated at every turn. I feel that Maid and Judge Evans cheated Alcatraz and me at every turn. This shows bias.

531. **BIAS #431** – It was obvious to Alcatraz and me that Judge Evans did not want to spend much time on this case. So, Judge Evans made rulings to dispose of issues without giving Alcatraz and me our rights or a fair opportunity to deal with this horrendous situation. This demonstrates a lack of impartiality by Judge Evans.

532. **BIAS #432** – The constitutional rights of Alcatraz and me were violated repeatedly in this lawsuit. Judge Evans never gave us the opportunity to present our case. Judge Evans didn't care what really happened in this matter. This shows bias.

533. **BIAS #433** – The ruling in this case could establish a major number of precedents that change important laws in Georgia. As I see it, no one can legitimately fight a lawsuit without expecting to pay all legal fees if they lose. Tortious interference does not require damages. Tortious interference does not have to meet the tests that have long been used. Sworn complaints do not have to have a shred of truth. There are no penalties for discovery abuse; you can tamper with witnesses, conceal documents, alter documents, refuse to produce documents, and produce your important

documents after discovery has closed. You do not have to produce your witnesses for depositions, but you can then use affidavits from them and deny the opposing party the ability to cross-examine. The legal basis for counterclaims is irrelevant, and the courts don't have to even deal with those issues. Slander is acceptable. No one is allowed to make a factual complaint to the Better Business Bureau. Courts may stop people from doing perfectly legal things. Courts do not have to go by the law. Courts do not have to consider the facts. Fact issues are no longer issues for a jury to consider; judges are allowed to handle jury trials themselves without involving actual jurors. The Georgia ticket broker laws are null and void, and no company or individual may ever sell a ticket that they acquired from someone else. Appeals have been eliminated as the law and the facts are not going to be considered by the Court of Appeals. This demonstrates a lack of impartiality by Judge Evans.

534. **BIAS #434** – Judge Evans sided with Maid on just about every issue. Judge Evans perverted the entire legal process through her lack of impartiality. Exhibit #5 to Dec #2 is a chart that I created to show the various motions filed in the District Court and the effect of the rulings of Judge Evans. This chart shows quite graphically how biased Judge Evans has been. Judge Evans ruled in favor of the Plaintiffs on forty (40) contested motions and in favor of the Defendants on one (1) contested motion. We actually lost on that one as well because Judge Evans violated her own order. Looking at the chart showing how many motions Judge Evans ruled

in favor of Maid, it should be clear that she was biased.

535. **BIAS #435** – Judge Evans changed her position on the case as Alcatraz and I provided evidence to defeat her earlier positions. A great example is ticket availability. Judge Evans said questions about ticket availability were why she issued the preliminary injunction. When I proved that I had obtained tickets, she changed her story to claim we had no right to sell tickets if Maid didn't want us to. Judge Evans never gave any legal basis for such a position. Georgia law allows precisely what Judge Evans said Alcatraz and I could not do. This proves bias.

536. **BIAS #436** – Judge Evans ignored evidence. Judge Evans invented evidence. The bias of Judge Evans must be the result of an opinion on the merits on some basis other than what the judge learned from her participation in this case. Judge Evans ignored the facts in this case. This shows bias.

537. **BIAS #437** – Judge Evans seems improperly preoccupied with email comments that I made to Maid's New York attorney. This has no relevance to this case. The emails include rhetoric that was designed to try to get the attorneys for Maid to respond and deal with the problems. Numerous polite attempts to get the attorneys to deal with the issues and speak with Alcatraz failed. NO ONE from Maid and no attorney for Maid EVER responded to calls, letters, or emails to have a requested conversation with Alcatraz before Maid

filed this lawsuit. The emails were sent for the purpose of documenting the abuse by Maid and the regular reports of slander viciously made against Alcatraz by Maid and its employees. I feel that Maid should have to pay Alcatraz for the damage done by the slander. Attorneys make such claims to each other on behalf of their clients all day every day, and the Courts never say boo about it, yet Judge Evans ignored the clear purpose of the emails and wanted to focus on the saber rattling. This makes no sense, is not relevant to the case, and I believe it clearly displays the bias that Judge Evans has against Alcatraz and me. It also demonstrates the success of what I consider to be the slimy legal practices of the attorneys for Maid. The issue that Judge Evans SHOULD HAVE BEEN focused on is why in the world didn't Maid or their attorneys respond to ANY of the MANY attempts by Alcatraz for there to be a conversation about this matter before Maid filed its lawsuit. This shows bias.

538. **BIAS #438** – My first motion to recuse was filed on April 24, 2009. [MIST-1 Doc. #361, incorporated herein as if attached hereto] and denied on May 22, 2009 [MIST-1 Docket 390.] I filed Appeal No. 09-13086-DD, and this Court denied the appeal sua sponte claiming it was FRIVOLOUS. The appeal was anything but frivolous! I filed a Motion for Reconsideration on September 15, 2009. Appeal No. 09-13086-DD is incorporated herein as if attached hereto. Based upon my considerable understanding of the law on the issues in this appeal, this order claiming my appeal was FRIVOLOUS is as dishonest as what Judge Evans

has done. Judges Hull, Marcus, and Pryor committed judicial misconduct. This shows bias.

539. **BIAS #439** – On April 24, 2009, I filed a Motion to Reopen the Case pursuant to FRCP Rule 60(b) and the Court's Inherent Powers. [MIST-1 Doc. 362.] On April 27, 2009, I filed two Motions for Sanctions against Maid and Maid's Attorneys. [MIST-1 Doc. 363 and 364.] On May 13, 2009, I filed a Motion for Discovery. The pervasive bias and improper actions of Judge Evans just continued. On May 22, 2009 in Doc. 390 ("Recusal Order"), Judge Evans made many false statements. Judge Evans stated under oath as a judge that there is no evidence of bad faith by Maid and Maid's attorneys. She stated that my motion "is entirely lacking in substantive merit." But close to 2,000 pages of sworn testimony and evidence was submitted, and it was not controverted by Maid. Judge Evans lied. This is perjury – false statements that Judge Evans knew were false that were made under oath in a judicial proceeding. This Court should refer this matter to the United States Attorney. The U.S. Attorney, the Attorney General, and the FBI have all refused to do anything for me. They will only act if a court asks them to. This proves bias.

540. **BIAS #440** – Judge Evans has committed criminal acts to damage me. Disqualification is justified on grounds that Judge Evans has violated several criminal statutes and more. I have provided proof, and my affidavits have not been controverted; see the entire Docket in MIST-1. While I understand that the concept is supposed to be that one is assumed innocent until

proven guilty, I have provided the proof. It seems to me that the mere accusation should disqualify the judge. If my Constitutional rights are to be protected, then this Court must do something. If nothing more, order the case to be stayed pending a grand jury consideration of perjury and obstruction of justice charges against Judge Evans. This shows bias.

541. **BIAS #441** – This brings up another conflict of interest. Judge Evans is represented by the United States Attorney, and it is the United States Attorney who will have to bring charges against Judge Evans to the grand jury. This Court should order that Judge Evans must obtain private counsel. This Court cannot allow a judge accused of perjury and obstruction of justice to continue as judge in MIST-1. While judicial immunity is not an issue in this Petition, this Court has expressed appropriate concern for criminal violations by federal judges in ***United States v. Hastings***. Any honest judge will be very concerned if a judge commits crimes. This Court must not ignore the charges of perjury and obstruction against Judge Evans and must not allow her to continue. This Court cannot pass off Judge Evans' actions as mistakes. She didn't make 200+ mistakes. If she made 200+ mistakes, she should be impeached for absolute incompetence. I am convinced that Judge Evans knew exactly what she was doing. I believe she committed perjury and obstruction of justice intentionally because she never dreamed that anyone would pursue action against her. After all, I have found that attorneys are scared to death of taking any action against a judge. That's why issues

like this are not a daily matter for the courts to address. Judge Evans didn't count on the fact that I would refuse to accept her dishonesty as attorneys do. This shows bias.

542. **BIAS #442** – To obtain orders and a judgment through the use of testimony known to be perjured offends due process. Judge Evans knows that the testimony of the witnesses for Maid was false. No competent evidence remains to support Maid. Deprivation of a hearing under these circumstances is a denial of due process of law. I filed motions with uncontroverted declarations alleging perjury, subornation of perjury, obstruction of justice, Rule 11 violations, and much more. The declarations provided undeniable proof through documents and the testimony of Maid's witnesses to prove Maid's false sworn statements. This proves bias.

543. **BIAS #443** – Judge Evans rejected or ignored the motions and the declarations sworn under penalty of perjury before a notary when my facts were the only facts before the court. This shows bias.

544. **BIAS #444** – Judge Evans abused discretion by ignoring reports of criminal violations, fraud, perjury, subornation of perjury, and other wrongs.

545. **BIAS #445** – Judge Evans had a ministerial duty to assure that I receive a fair and impartial hearing and to ensure that my Constitutional rights, laws, and rules are not

violated. Judge Evans completely ignored her duties as a judge in this regard. This proves bias.

546. **BIAS #446** – Canon 3 D. (2) of the CJC requires: "Judges having knowledge that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority." Judge Evans was provided with uncontroverted proof that Maid's attorneys committed numerous violations of the State Bar of Georgia Rules of Professional Conduct. As the proof was clear, documented, and uncontroverted, Judge Evans had a ministerial duty to report this. Judge Evans had no obligation to weigh uncontroverted facts in order to render a judgment; she was simply obligated to administer assigned duties. This proves bias.

547. **BIAS #447** – Judge Evans has a legal obligation to set aside the judgment for fraud upon the court. I provided uncontroverted proof. Maid had every opportunity to dispute my proof, and they did not. As the proof of fraud upon the courts is documented, proven, and uncontroverted, Judge Evans had a ministerial duty to set aside the judgment for fraud upon the courts. Judge Evans had no obligation to weigh facts in order to render a judgment as the facts are uncontroverted; she was simply obligated to administer assigned duties by the FRCP. This shows bias.

548. **BIAS #448** – Judge Evans did not consider if the motion for recusal was procedurally

sufficient or substantively sufficient as required by 28 U.S.C. § 144. [MIST-1 Doc. 390. This is a violation of ministerial duties that requires mandamus. According to my reading, Judge Evans had to determine if the motion was procedurally adequate. This Second Motion to Recuse was procedurally adequate. The Motion alleges facts that warrant disqualification for cause pursuant to the statutes. This was a proper application for a change of judge, and based upon my reading of the law, Judge Evans no longer had jurisdiction to proceed in the action in which her impartiality is questioned. I submit that the failure to follow proper procedure resulted in a violation of my civil rights and Judge Evans has been acting in the absence of all jurisdiction. According to my reading, when a trial judge in a case pending in that court is presented with a motion to recuse accompanied by an affidavit, the judge's duty will be limited to passing upon the legal sufficiency of the affidavit, and if, assuming all the facts alleged in the affidavit to be true, recusal would be warranted, then another judge must be assigned to hear the motion to recuse. Judge Evans is not the proper person to decide if I have asserted valid factual and legal grounds to recuse Judge Evans. This would be like letting the fox guard the hen house. There could be nothing fair about criticizing at length the actions and bias of the Judge, and then letting the biased judge rule on whether those criticisms were valid. My motion for recusal is not based solely on Judge Evans' prior rulings in favor of Maid. It is based upon pervasive bias which has been enumerated in this declaration.

549. **BIAS #449** – ANY doubt regarding whether recusal is required must be resolved in favor of recusal. According to my reading of case law, 28 U.S.C. § 455 creates a "self-enforcing obligation" for judges to recuse themselves, and any doubt regarding whether recusal is required must be resolved in favor of recusal. Judge Evans ignored this obligation. This shows bias.

550. **BIAS #450** – Canon 2 of the Code of Conduct for United States Judges tells judges to "avoid impropriety and the appearance of impropriety in all activities," on the bench and off. Judge Evans has violated this Canon. This is a case of pervasive bias.

551. **BIAS #451** – Denying Alcatraz and me access to important records, evidence, and witnesses is a violation of Equal Protection. This shows bias.

552. **BIAS #452** – Judge Evans has violated the Defendants' civil and constitutional rights under color of law. This shows bias.

553. **BIAS #453** – Judge Evans should have recused herself because she has been named a witness in this matter. This shows bias.

554. **BIAS #454** – Judge Evans should have recused herself because I filed a Judicial Misconduct Complaint against her with the Judicial Council of the 11th Circuit. This shows bias.

555. **BIAS #455** – The Recusal Order says: "Windsor's affidavit gives no foundation for this

contention other than that he felt that Judge Evans' rulings are unfair." (MIST-1 Doc.390-Pg.5,Footnote-2. This is outrageously false. I have shown pervasive bias and dishonesty by Judge Evans, including approximately 240 false statements in the PI Order and SJ Order, withholding evidence, obstruction of justice, fraud upon the courts, and violations of due process. Dec#2 (MIST-1-- Doc.361, incorporated herein as if attached hereto) provides 92 pages and 361 paragraphs of meritorious reasons. Amended Dec#3 (Doc.377, incorporated herein as if attached hereto) contains 28 exhibits with 2,410 pages of sworn testimony that are detailed analysis with citations showing that Judge Evans made as many as 240 false statements in the PI Order and SJ Order. Dec#6 (MIST-1-- Doc.385), incorporated herein as if attached hereto, provides a long list of reasons. The Motion to Recuse listed 13 categories of reasons. (MIST-1 -- Doc.361-Dec#2:¶¶9-91. I have provided uncontroverted proof of false statements in orders. This is not a contention that I feel Judge Evans' rulings are unfair; this is proof that they were wrong and that there was perjury. This shows bias.

556. **BIAS #456** – The Recusal Order claims bias must be extra-judicial. (MIST-1 -- Doc.390:Pg.5,Footnote-2. Judge Evans did discriminate against me as a pro se party and a male. (MIST-1 Doc. 361 ¶84-85; Doc. 406 ¶27-31. However, the distinction of whether actions or comments are categorized as "extra-judicial" is not the determining factor in recusal. The Supreme Court made it clear in 1994 that the source of the impartiality of the court need not necessarily stem

from an extra-judicial source. In *Liteky v. U.S.*, Justice Scalia writes at length about this issue. Extra-judicial is a bogus argument that Judge Evans, Judge Duffey, and the Eleventh Circuit have used to improperly justify failing to recuse judges. Judge Evans was wrong in the Recusal Order [MIST-1Doc. 390 -- Exhibit C to the Petition, incorporated herein as if attached hereto] when she claimed bias must be extra-judicial. Judge Evans did not apply the proper standard when considering the motion to recuse. The law is very clear. Judge Evans ignored the law. Judge Evans was wrong by claiming that bias must be extra-judicial. The May 22, 2009 Order says: "The only extra-judicial bias that Windsor cites in his motion is his belief that Judge Evans discriminated against him because he is male and he is pro se." (MIST-1 Doc.390:Pg.5,Footnote-2.) Judge Evans clearly discriminated against me as a pro se party. She would not even allow me to take a 30(b)(6) deposition. (MIST-1 Doc.174-Pg.59.) Maid attorneys defamed me every chance they got with a malicious claim that I called Berry a "bitch." Judge Evans didn't like the idea that a male would say such a thing. She ignored the evidence that Berry admitted that I did not. (MIST-1 Doc.378-Dec#5:Pgs.477,478-¶¶2631-2644.) The source of the impartiality of the court need not stem from an extra-judicial source: A favorable or unfavorable predisposition can also deserve to be characterized as "bias" or "prejudice" because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. This shows bias.

557. **BIAS #457** – My declarations state very clearly the facts and reasons for the belief that bias and prejudice exists and that there is an appearance of impartiality. Dates, times, places, circumstances, and statements are itemized in Dec#2 (MIST-1Doc.361, incorporated herein as if attached hereto) and Dec#7 (Doc.381, incorporated herein as if attached hereto). (See MIST-1Doc.406 ¶21-25 and Exhibit A thereto, incorporated herein as if attached hereto; and MIST-1Doc.470. Justice Scalia says the law requires that there be no reasonable question, in any informed person's mind, as to the impartiality of the judge. Honest, reasonable, informed lay persons will agree that Judge Evans appears to lack impartiality. This is a case of pervasive bias. Judge Evans established a position that Alcatraz and I were wrong and that our case didn't matter. (MIST-1Doc.381-Dec#7:Pgs.13-14, incorporated herein as if attached hereto; MIST-1Doc. 406 ¶40-55. When all of the evidence is considered, this is absolutely a case for recusal. This shows bias.

558. **BIAS #458** – The affidavit in support of 28 U.S.C. § 144 must state the facts and reasons for the belief that bias and prejudice exist. The reasons must be material and stated with particularity. I met this requirement. A 28 U.S.C. § 144 motion "must be filed with reasonable promptness after the party learns of the facts that may call into question the judge's impartiality." In April 2009, upon obtaining the contracts that Judge Evans withheld, I finally had independent documentary proof of the bias. The Motion to Recuse was filed as soon as possible thereafter on April 24, 2009 simultaneously with a Motion to Reopen that established a new

"proceeding" on day one of the "session" at which the proceeding was to be heard. I met this requirement. (MIST-1Doc.361, incorporated herein as if attached hereto; MIST-1Doc.362. The affidavit of prejudice is to be accompanied by a certificate of counsel of record stating that it is made in good faith and attesting to the truthfulness and accuracy. I filed a certificate. I stated in Declaration #1 (MIST-1Doc.362, incorporated herein as if attached hereto) filed on April 24, 2009: "I hereby state that my motions and declarations are made in good faith. James W. Penland has filed a motion to withdraw as my counsel." This was signed "William M. Windsor, Pro Se." (MIST-1Doc.362-Dec#1:¶75. The allegations of the certified affidavit must be accepted as true, and Judge Evans was supposed to act in accordance with the mandate of 28 U.S.C. § 144 and recuse herself. This proves bias.

559. **BIAS #459** – I stated material allegations with particularity. I complied with the statutory procedure. The facts and allegations of personal bias in the Affidavit of Prejudice were certainly legally sufficient. The motion was proper, and the Certificate was proper. This proves bias.

560. **BIAS #460** – The Recusal Order says: "Windsor has failed to file any certificate of counsel of record." (MIST-1Doc.390-Pg.6:15-16. I am pro se, so there is no "counsel of record." I was unable to obtain an attorney to represent me due to fear of retribution for taking action against a federal judge. (MIST-1Doc.381-Dec#7:¶5. My research found that ***Stine v. United States*** cites 13 cases, including one federal appellate court decision, stating that a pro se

litigant may file the certificate of good faith, signed by himself, indicating that his motion and affidavit are filed in good faith. I did just that. This shows bias.

561. **BIAS #461** – I am entitled, under the Constitution and its amendments, the decisions of the U.S. Supreme Court and other federal courts of appeal, and the laws of Congress, to an impartial and fair judge. Judge Evans has violated my rights guaranteed in the First, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the U.S. Constitution under color of law. I have been deprived of due process and equal protection under the law. I have been so deprived that it has risen to the level of criminal activity by the various judges involved. In my opinion, these judges are crooks – much worse than the average criminal defendant who comes before them. Heaven help the criminal defendants who have been wrongly convicted by these dishonest judges. I hope a lot of people get new trials once the corruption in the federal courts in Atlanta, Georgia is exposed for the public to see. Judge Evans has shown pervasive bias against me from the first day that she became aware of the lawsuit.

562. **BIAS #462** – The denial of my motions on May 22, 2009 was because of bias, not based upon the merits or law. The May 22, 2009 Order contains completely, totally, unbelievably false statements. Judge Evans stated under oath as a judge that there is no evidence of bad faith by Maid and Maid's attorneys. She stated that my motion "is entirely lacking in substantive merit." But close to 2,000

pages of sworn testimony and evidence was submitted, and it was not controverted by Maid. This PROVES bias.

563. **BIAS #463** – There is no factual support for the May 22, 2009 Order. Maid did not file a single affidavit. This shows bias.

564. **BIAS #464** – Judge Evans claimed there was not ANY evidence that Maid acted in bad faith in the course of this litigation. There is massive evidence of bad faith, so the May 22, 2009 Order PROVES BEYOND ANY DOUBT WHATSOEVER that Judge Evans is biased, dishonest, and corrupt. The May 22, 2009 Order says: "The Court finds that there is not any evidence that Plaintiffs acted in bad faith in the course of this litigation." "...Windsor complains about a large number of Plaintiffs' filings....Windsor's motion is entirely lacking in substantive merit." (MIST-1 Doc.390-Pg.13.) Something is rotten in ~~Denmark~~ Judge Evans' chambers. I provided HUNDREDS of pages of evidence of bad faith and intentional dishonesty. (MIST-1 Doc.361; MIST-1 Doc.362; MIST-1 Doc.363; MIST-1 Doc.364.) And not a single statement has been controverted by Maid! "Not any evidence" consists of 1,905 pages of sworn testimony by Windsor, 810 exhibits, and thousands of citations to evidence. And that is just what was filed from April 24, 2009 to May 22, 2009 when the May 22, 2009 Order was issued. Specific evidence was the following: "MIST-1Doc.361 (Motion to Recuse with Dec#2–95 pages-23 exhibits); MIST-1Doc.362 (Motion to Reopen with Dec#1–36 pages-23 exhibits; Dec#3–13 pages and 28 exhibits, and Dec#4-11

exhibits); MIST-1Doc.363 (Motion for Sanctions with Dec#11–184 pages); MIST-1Doc.364 (Motion for Sanctions with Dec#12–44 pages); MIST-1Doc.368 (151 customer declarations); MIST-1Doc.374 (Motion for Discovery); Doc.377 (Amended_Dec#3–13 pages-28 exhibits); Doc.378 (Dec#5–1355 pages-736 exhibits); MIST-1Doc.381 (Reply to Response on Motion to Recuse–Dec#7–127 pages); MIST-1Doc.383 (Support of Motion to Recuse–Dec#8–7 pages); MIST-1Doc.385 (Reply to Response to Motion to Reopen–Dec#6–31 pages). No reasonable person could agree with Judge Evans statement that "Windsor's motion is entirely lacking in substantive merit." Entirely lacking in substantive merit is defined as "completely missing actual factual content." This statement is excellent proof of pervasive bias.

565. **BIAS #465** – My reports of perjury, false sworn pleadings, and Rule 11 violations were never given consideration by Judge Evans. She did absolutely nothing about my claims pre or post-SJ that Maid had lied hundreds of times and that Maid's attorneys had repeatedly violated Rule 11. (MIST-1 Doc.174:Pgs.34,45-47,23-28.) The system of checks and balances failed when Judge Evans allowed her pervasive bias to punish Alcatraz and me with perjury and obstruction of justice. The SJ decision was based on an erroneous view of the law and a clearly erroneous assessment of the evidence. This shows bias.

566. **BIAS #466** – Judge Evans did not have factual support for her rulings. Judge Evans made various statements that seem to purport to be facts

in the May 22, 2009 Order, but these statements are not supported by any evidence or citations and should not be considered. Maid did not file any affidavits in 2009. My fact statements have not been controverted. That's because they are true, and Maid is now afraid to make more statements under oath due to perjury. (MIST-1 Doc.361; MIST-1 Doc.362; MIST-1 Doc.363; MIST-1 Doc.364.) This shows bias.

567. **BIAS #467** – Judge Evans denied my Rule 60(b) motion due to improper interpretation of the law. Judge Evans improperly defined "proceeding" to exclude a Rule 60(b) motion or a Motion to Recuse. (MIST-1 Doc.390:Pg.6,Footnote-3.) BUT, Rule 60(b) is used **to obtain relief from judgments**, so it is designed **to attack the finality of judgments**. Rule 60(b) actions are permitted under the FRCP as are Rule 60(d) motions, independent actions for fraud upon the court, and other actions. (MIST-1 Doc.362.) A "legal proceeding" is defined as "all actions that are authorized or sanctioned by law and instituted in a court or a tribunal for the acquisition of rights or the enforcement of remedies." 60(b) motions are actions authorized by law and instituted in the court where a party seeks to acquire a right – to overturn a prior decision. Justice Scalia has explained 60(b) as "...a provision whose whole purpose is to make an exception to finality." Judge Evans cited no case law to support this bizarre position, while I cited several cases. Judge Evans claimed there was no "proceeding." Both recusal statutes require a "proceeding" pending before the judge sought to be recused. 28 U.S.C. §§ 144, 455. The term "proceeding" implies "the judge's

participation in decisions affecting the substantive rights of the litigants to an actual case or controversy." In this case, a new proceeding was created when I simultaneously filed the Motion to Reopen and the Motion to Recuse. This shows bias.

568. **BIAS #468** – Judge Evans claimed the 60(b) motion was untimely, but this was absolutely false. I filed the motion just five months after the Final Order and Judgment was entered. Rule 60(b) allows certain claims within a year and others at reasonable times (that have been 40 years or more later). I cited several cases. This shows bias.

569. **BIAS #469** – In the May 22, 2009 Order, Judge Evans noted the 2007 Summary Judgment Order (MIST-1 Doc.251), BUT she failed to note the four most important facts. (1) The SJ Order was appealed (MIST-1 Doc.254;MIST-1 Doc.256). (2) The judgment was vacated and remanded in part on October 21, 2008. (MIST-1 Doc.344.) Therefore, there were matters pending on the docket in October 2008. The ruling of the U.S.C.A. **did alter the judgment** as it vacated the award of attorney's fees. I was not found liable for tortious interference, the only cause of action, so when the attorney's fees order was vacated, this was the only issue as to me. (MIST-1 Doc.251:Pg.32.) (3) On October 28, 2008, Judge Evans entered an order declaring the mandate of the U.S.C.A. to be the judgment of the court. (MIST-1 Doc.346.) (4) Then the **Final Order** and **Judgment** was entered on December 9, 2008, just five months before the Motion to Reopen was filed. (MIST-1 Doc.354.) The only judgment identified as a "Final Judgment" in

this case was dated December 9, 2008. (MIST-1 Doc.354.) So, my motion was timely. (MIST-1 Doc.385-Dec#6:¶71-76.) In my motion, I specified the "final order, judgment, or proceeding." (MIST-1 Doc.362-Dec#1,¶3,56,prayer-Pg.25;Doc.385:¶¶61,72,73,prayer-Pg.20;Doc.385-Dec#6:¶¶72,73.) This shows bias.

570. **BIAS #470** – Judge Evans falsely stated that I did not have valid arguments under Rule 60 (b). This shows bias.

571. **BIAS #471** – Rule 60(b) (1) is valid based upon one interpretation of "excusable neglect," and the "Final Order and Judgment" was timely. Rule 60(b) (1) provides that the Court may relieve a party from the effects of an order for "mistake, inadvertence, surprise, or excusable neglect. This includes errors made by judicial officers as well as parties. I have established mistake, errors by judicial officers, and neglect. (MIST-1 Doc.362.) Mistakes in this case have been detailed in MIST-1 Doc.362-Dec#1,¶¶8-27. "Neglect" means "'to give little attention or respect' to a matter . . . 'to leave undone or unattended to es[pecially] through carelessness'" "The word therefore encompasses both simple, faultless, omissions to act, and more commonly, omissions caused by carelessness." Making the determination that neglect is excusable, "is at bottom an equitable one, taking into account all relevant circumstances surrounding the party's omission." Factors that a court should consider include: "the danger of prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay,

including whether it was within the reasonable control of the movant, and whether the movant acted in good faith." Factor #1-Danger of Prejudice: "The Bazzo Depo provides evidence of what actually happened in this case. It will serve justice and should not be viewed as prejudicing Maid. The case will proceed on the merits. Having to incur the risk and cost of moving forward does not constitute prejudice. There has been no trial. This will simply restore the parties to an even footing, except for the million dollars that Alcatraz and I have lost. (MIST-1 Doc.362-Dec#1:¶10.) Factor #2-Length of the Delay and its Potential Impact on the Judicial Proceedings: "This motion was filed only four months after the Final Order and Judgment was entered following the appeal of the SJ. Factor #3-Reason for the Delay: "This motion was filed on April 24, 2009 as soon as possible after newly-discovered evidence. I was unaware until April 2009 of the existence of a remedy such as Rule 60(b). Factor #4-Good Faith: I have acted in the best of faith. I did not want to settle with Maid. I have devoted 16-hours a day for months to researching the law, and this motion absolutely must be approved. 5. All Relevant Circumstances: Mr. Raley failed to file the most important deposition in the case, the deposition of Carolyn Ballard Bazzo ("Bazzo Depo"), despite TWO notices filed by Maid asking that the deposition be filed. It was his responsibility, and Alcatraz and I always did everything that was asked of us and quickly. Bazzo confirms the oral contract for the 2005 season that Judge Evans improperly ruled did not exist. This is the KEY ISSUE in MIST-1. (MIST-1 Doc.362-Dec#1:¶14.) Alcatraz and I asked Mr. Raley by fax and email to be sure everything needed

was filed. Raley invoices indicate that a new hire misread the first notice and failed to review the second notice. Mr. Raley was not minding the critical filings during summary judgment time, and he failed to file the deposition. Alcatraz and I did not make the mistake. Alcatraz and I specifically communicated to Mr. Raley the importance of being sure that everything was filed. This was a matter beyond the control of Alcatraz and me. (MIST-1 Doc.385-Dec#6:¶20,Exh.6.) I did not place the fax, emails, and invoices into evidence out of fear that it might void Attorney-Client Privilege, but these and other documents are available. The Eleventh Circuit has held that a party may claim "excusable neglect" if its "failure to timely perform a duty was due to circumstances which were beyond (its) reasonable control." The agreement between Alcatraz, Mr. Raley, and me was that Raley was to file everything. Mr. Raley received and paid for all deposition transcripts; did all calendaring; handled the filing of all depositions and all documents directly with the Court; obtained the signature page from Bazzo; reviewed all mail; reviewed the court docket; and handled everything but discovery. I never filed anything myself. I sent a fax to Raley stating that he was concerned that items needed to be filed. Mr. Raley prepared the summary judgment filing, and I was not afforded the opportunity to review it. The filing of Bazzo's deposition was beyond the reasonable control of Alcatraz and me. (MIST-1 Doc.361-Dec#1:Pg.5,¶11.) The Supreme Court says a court must take account of all relevant circumstances. I detailed these in the Motion to Reopen, and the basic issues are stated in Doc.362, ¶10 and Dec#1, ¶10. (MIST-1 Doc.385-Dec#6:¶17.)

The August 8, 2007 SJ Order indicates that our claims would have prevailed as a matter of law with Bazzo's deposition testimony. Judge Evans *claimed* there was no proof of the oral contract for the entire 2005 season. (MIST-1 Doc.251:Pg.37.) While that was clearly erroneous, Bazzo's Deposition provides 84 pages of testimony. (MIST-1 Doc.269:¶¶48-131.) The filing of the deposition would change the outcome of this case with an unbiased judge. (MIST-1 Doc.385-Dec#6:¶26.) Worst case, the oral contract between the parties was a fact issue for the jury to decide. There are three witnesses. Bazzo and I have testified to the truth while attorneys for Maid have made false statements with no testimony to support. Maid never had any evidence before the court to contradict the evidence of Alcatraz and me; Carlson provided no admissible evidence. (MIST-1 Doc.381-Dec#7:Pgs.33-38.) Since there was a contract, nothing that Alcatraz and I did was wrong, and everything that Maid did was wrong. (MIST-1 Doc.362-Dec#1:¶13.) That Judge Evans claimed there was no fact issue on the oral contract was a HUGE ERROR. (See: MIST-1 Doc.377-Exh.24.) This proves bias.

572. **BIAS #472** – Judge Evans gave only two sentences of justification in the May 22, 2009 Order for why 60(b) (1) did not apply: " (1) "Windsor's failure to file the Bazzo deposition is not excusable...." (2) "Windsor's claim that this Court withheld evidence from the Defendants during discovery merely seeks to rehash a discovery issue.... (MIST-1 Doc.209)." (MIST-1 Doc.390-Pg.95.) This shows bias.

573. **BIAS #473** – The May 22, 2009 Order says: "In order to obtain relief for excusable neglect under Rule 60(b) (1), Windsor must show that he had a meritorious defense, that Plaintiffs would not be prejudiced if the order was vacated, and that he had a "good reason" for the neglect." (MIST-1 Doc.390-Pg.9:7-12.) Judge Evans did not address meritorious defense or prejudice, so these should have been accepted as proven. This shows bias.

574. **BIAS #474** – Judge Evans' refusal to excuse the failure to file the deposition is proof of bias. My assertion that Judge Evans withheld relevant documents from Alcatraz and me definitely has merit because the withheld documents contained extremely important information for us. Judge Evans had an obligation to review those documents and provide them to us unless Judge Evans was shown bogus documents. (MIST-1 Doc.385-Dec#6:¶30; **MIST-1** Doc.361-Dec#2:¶¶104-149.) The fact that Judge Evans continues to rule against me on this issue is proof of bias and wrongdoing. (MIST-1 Doc.385-Dec#6:¶31.)

575. **BIAS #475** – Rule 60(b) (2) is valid due to newly-discovered evidence, and the motion was timely. Rule 60(b) (2) provides that relief is available based upon newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b). Judge Evans incorrectly claimed: "Windsor's claims as to the two contracts again seeks to rehash the merits of this Court's prior discovery orders, which, as discussed above, is an inappropriate basis for a Rule 60(b) motion." (MIST-1 Doc.390-Pg.9.)

The issue with the two contracts has nothing to do with "rehashing." First, it was clearly wrong for Maid to have claimed those contracts were "irrelevant." Second, this has to do with proof of fraud upon the courts. I now have copies of the actual contracts through other sources. The issue is whether the contracts presented to Judge Evans by Maid were bogus contracts, or whether Judge Evans wrongly withheld the valid documents. To obtain relief under Rule 60(b) (2), a party must show that evidence was (1) discovered after trial, (2) material, (3) not merely impeaching or cumulative, (4) likely to produce a different result on retrial, and (5) that the party exercised due diligence to obtain the evidence. I have shown that the evidence discovered meets these requirements: "Requirement #1-Discovered After Trial: "These contracts were not obtained until April 2009 despite diligent efforts. Requirement #2-Material: "These contracts are extremely material as they provide an explanation for lies and deceit of Maid; establishes a motive for the wrongful actions of Maid; establishes that Maid had unclean hands; and establishes documentary proof of the fraud and dishonesty of Maid. (MIST-1 Doc.362-Dec#1:¶¶21-32,¶¶77-123,Exhs.1,2.) Requirement #3-Not Merely Impeaching or Cumulative: "These contracts provide completely new information. Requirement #4-Likely to Produce a Different Result: "This new information will change the way an honest judge looks at this case. Alcatraz and I will be meritorious at trial. (MIST-1 Doc.362-Dec#1:¶30.) Requirement #5-Exercise Due-Diligence to Obtain: Alcatraz and I served two Requests for Production, filed a Motion to Compel, filed Freedom of Information Act requests, and called the two governments involved – all to no

avail. A legal action was filed in Canada in 2009 to obtain the documents. Judge Evans incorrectly claims: "The declarations of Alcatraz employees and customers, and the fax that Windsor received on March 3, 2005, do not constitute 'new evidence' that could not have been discovered with due diligence, as Windsor admits that this evidence was in Windsor's possession before this Court's ruling on summary judgment and it was simply not filed or emphasized to the Court." (MIST-1 Doc.390-Pg.10:15-20.) The March 3 fax was not in my "possession" at summary judgment. (MIST-1 Doc.381-Dec#7,¶77; MIST-1 Doc.361-Dec#2, ¶91.) It was found misfiled by accident in my personal property in my basement long after discovery closed and SJ was issued, long after at least 40 man hours of searching failed to find anything in 2005 and 2006. Discovery takes place when a party sees or hears information, not when a party suspects the existence of evidence that it tries to obtain and cannot obtain. (MIST-1 Doc.385-Dec#6:¶33.) I did not know I had this fax. I did not even remember that I had received such a fax. Maid never produced the fax. Carlson never appeared for any of her many scheduled depositions. The fax was not in Alcatraz's files where it should have been. (MIST-1 Doc.385-Dec#6:¶34.) The Carlson fax is clearly material. It supports our sworn claims about what happened on March 3, 2005, and it proves that Maid's alleged statement of facts was false in this regard. It also proves that Carlson's inadmissible affidavit (MIST-1 Doc.147) was false and destroys any "credibility." (MIST-1 Doc.385-Dec#6:¶35.) This relates to the KEY issue in the case. (MIST-1 Doc.362-Dec#1:¶34-35,Exh.3.)

576. **BIAS #476** – Judge Evans claimed: "Windsor's arguments under Rule 60(b) (3), (4) and (5) are also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support or contentions that the Court should revisit its prior rulings in this case. (See Doc.362, at 16-22) Such arguments are not proper grounds for relief under Rule 60." (MIST-1 Doc.390,P10.) Cursory is defined as "performed with haste and scant attention to detail." This is a bizarre claim by Judge Evans because I provided thorough, thoughtful, carefully analyzed, excruciatingly detailed citations of proof of the dishonesty compiled over three years. Specific evidence before Judge Evans was MIST-1 Doc.361 (Motion to Recuse with Dec#2–95 pages and 23 exhibits); Doc.362 (Motion to Reopen with Dec#1–36 pages and 23 exhibits, Dec#3–13 pages and 28 exhibits, and Dec#4 and 11 exhibits); MIST-1 Doc.363 (Motion for Sanctions with Dec#11–184 pages); MIST-1 Doc.364 (Motion for Sanctions with Dec#12–44 pages); MIST-1 Doc.368 (151 customer declarations); MIST-1 Doc.374 (Motion for Discovery); MIST-1 Doc.377 (Amended Dec#3–13 pages and 28 exhibits); MIST-1 Doc.378 (Dec#5–1355 pages and 736 exhibits); MIST-1 Doc.381 (Reply to Response on Motion to Recuse–Dec#7–127 pages); MIST-1 Doc.383 (Support of Motion to Recuse–Dec#8–7 pages); MIST-1 Doc.385 (Reply to Response to Motion to Reopen–Dec#6–31 pages). All declarations have been sworn under penalty of perjury before a notary. This is 1,905 pages of sworn testimony, 810 exhibits, and thousands of citations to evidence.[114] The fact that Judge Evans said this

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[114] To ensure that everything needed to prove all of Windsor's

constitutes "cursory allegations of dishonesty with no evidentiary support or contentions" is excellent proof of bias by Judge Evans. The evidence of misconduct is overwhelming, and it prevented Alcatraz and me from fully presenting our case. Rule 60(b) (3) is valid due to fraud, and the motion was timely. To obtain relief based upon fraud under Rule 60(b) (3), the moving party must prove by clear and convincing evidence that the adverse party obtained the verdict through fraud, misrepresentations, or other misconduct. The moving party must also demonstrate that the conduct prevented them from fully presenting his case. This proves bias.

577. **BIAS #477** – Judge Evans claimed that my arguments under Rule 60(b)(4) were also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support or contentions that the Court should revisit its prior rulings in this case. Rule 60(b)(4) is valid because Judge Evans acted in a manner inconsistent with due process of law, and this motion was timely. This shows bias.

578. **BIAS #478** – On the issue of due process, the May 22, 2009 Order says: "His allegations are cursory and, while they evidence Windsor's disagreement with the outcome of the case, they do not provide a basis for finding that the

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claims was in the record under oath, Windsor has taken a most unconventional step. He subsequently filed Dec #25 – a 3,528-page 11,255-paragraph 2000+ exhibit affidavit sworn under penalty of perjury before a notary. (MIST-1 Doc.462.)

judgment is void." (MIST-1 Doc.362-Pg.18; MIST-1 Doc.390-Pg.10:27-28,Pg.11:1-5.) This is another bizarre claim by Judge Evans because Windsor provided extensive evidence. See Exhibits 8 and 22 to MIST-1 Doc.377. I submit that the fact that Judge Evans said these allegations were "cursory" is excellent proof of bias by Judge Evans. Under Rule 60(b) (4), a court may relieve a party from a final judgment if the judgment is void. "Generally, a judgment is void ... if it acted in a manner inconsistent with due process of law." I was denied the basic legal rights that I am supposedly guaranteed by the law of the land. There was no fundamental fairness in this case, and Judge Evans was not the least bit impartial. (MIST-1 Doc.385-Dec#6:¶60-63.) The SJ was improperly issued and should be void because (a) there was an oral contract or at least a fact issue, (b) tortious interference fails as there were no damages, (c) sale of Maid tickets by Alcatraz and me would be legal under the First Sale Doctrine and O.C.G.A.43-4B, (d) the SJ Order contains as many as 200 false statements, and (e) Maid, Maid attorneys, and Judge Evans were extremely dishonest, and other factors. (See Appeal Briefs – Appeal_No._07-14214-BB and 07-14235-BB.) SJ is inappropriate where the record, examined in the light most favorable to the party opposing the motion shows any material facts in dispute. This shows bias.

579. **BIAS #479** – Judge Evans claimed that my arguments under Rule 60(b) (5) were also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support or contentions that the Court should revisit its prior

rulings in this case. Rule 60(b) (5) is valid because the injunction violates O.C.G.A.43-4B and the First Sale Doctrine. "[a]n error of law constitutes an abuse of discretion." The Final Judgment in this case includes an injunction that was an error of law. Rule 60(b) (5) authorizes a court to grant relief from final judgment if applying it prospectively is no longer equitable. There were clearly erroneous factual findings, erroneous legal findings, and a manifest injustice. (MIST-1 Doc.362-Dec#1:¶63.) (MIST-1 Doc.377-Amended_Dec#3: Exhs. 8, 22, 23, 24, 25, 26, 27, 28.) Alcatraz and I have the legal right to sell tickets obtained from lawful sources. (MIST-1 Doc.362-Dec#1:¶¶64-70.) MIST-1 Doc.385-Dec#6:¶¶65-68.) The "first sale doctrine" applies. Furthermore, O.C.G.A.43-4B provides that licensed ticket brokers, such as Alcatraz and me, are licensed to sell tickets that they lawfully obtain without any permission of any type from the originator of the tickets. (MIST-1 Doc.385-Dec#6:¶67.) The State legislature established this licensing system, and the Georgia Athletic and Entertainment Commission confirms Alcatraz's right and my right to sell any tickets lawfully obtained. (MIST-1 Doc.378-Dec#5:¶¶8921,8924,8928; MIST-1 Doc.377-Amended_Dec#3,Exh.22; MIST-1 Doc.462-Dec#25: ¶¶1252, 1970, 2274, 7907, 8891.) Judge Evans made an error of law. Proper application of the law would have changed the outcome of this case. The injunction is not prospectively equitable, and there was no tortious interference with Maid in 2006, because Alcatraz was merely doing what it is allowed to do under the First Sale Doctrine and then as a ticket broker licensed by the State of Georgia. (MIST-1 Doc.385-Dec#6:¶68.) This shows bias.

580. **BIAS #480** – Rule 60(b)(6) is valid because of exceptional circumstances and fraud upon the court. "Exceptional circumstances" is vitally important in this likely unprecedented case of fraud upon the court. (MIST-1 Doc.362.) The May 22, 2009 Order says: "As Windsor here has raised his claims under Rule 60(b) (1)-(5), Windsor has no recourse under Rule 60(b)(6)." (MIST-1 Doc.390-Pg.11.) This is incorrect. Many Rule 60 cases have allowed multiple sections of Rule 60 to be considered including 60(b)(6). "If relief is denied under 60(b)(1), then Plaintiff still has an avenue of attack under 60(b)(6)." I cited many cases on this. The purpose of Rule 60 is to make it possible for judicial errors to be corrected. Rule 60(b)(6)'s provision for "exceptional circumstances" provides a different basis than (1)-(5). "By its terms, Rule 60(b)(3) deals with 'fraud . . ., misrepresentation, or misconduct *by an adverse party,* 'while the savings clause to Rule 60(b)(6) recognizes 'the power of a court to entertain an independent action to relieve a party from a judgment . . . for fraud upon the court.' This shows bias.

581. **BIAS #481** – Another problem with Judge Evans' position on 60(b)(6) is that she stated my claims did not have merit under the other five categories. (MIST-1 Doc.390-Pg.9.) Lawyers.com defines merit as "legal significance, standing, or worth." If claims do not have "legal standing" under (1)-(5), and Judge Evans is correct, then 60(b)(6) must be given consideration as the only available section. Rule 60(b)(6) permits claims for "exceptional circumstances" and is the only section

that encompasses fraud upon the court. Ir did plead exceptional circumstances and fraud upon the court through an unconscionable scheme by officers of the court. (MIST-1 Doc.362-Dec#1:Pgs.52,72-73,89; MIST-1 Doc.381-Dec#7:¶172; MIST-1 Doc.377-Amended_Dec#3:¶16; MIST-1 Doc.378-Dec#5:¶¶540,6071.) "In simple English," Rule 60(b) vests power in courts "adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice." The whole point of my Motion to Reopen is that the totality of the lies, false sworn pleadings, Rule 11 and Rule 34/37 violations, and errors by Judge Evans provide an exceptional circumstance so severe that justice demands that the case be reopened. This is far more than garden variety fraud. (MIST-1 Doc.385-Dec#6:¶8.) The proof of the lies/perjury is detailed in MIST-1 Doc.377, Amended Dec#3, Exhibits #1-15. (MIST-1 Doc.385-Dec#6:¶9.) This shows bias.

582. **BIAS #482** – I asked Judge Evans to consider every point raised in the Motion to Reopen, first Motion to Recuse, and Declarations as the basis for granting relief under Rule 60(b) or the Court's inherent powers. (MIST-1 Doc.385-Dec#6:¶12.) In the May 22, 2009 Order, Judge Evans did not address why the motion would not qualify as an "exceptional circumstance," and Maid provided no affidavits to support the false assertions of Maid's Attorneys. (MIST-1 Doc.385-Dec#6:¶70, Exh.1.) This shows bias.

583. **BIAS #483** – Judge Evans claimed that I could not pursue Rule 60(b) because Alcatraz and I entered into a Consent Final Order and Judgment.

(MIST-1 Doc.354). That decision was made BASED UPON FEAR that Judge Evans would award much greater attorneys' fees. Settlement was reached in an effort to minimize the financial exposure as the Eleventh Circuit mediator proposed. (MIST-1 Doc.385-Dec#6:¶78.) Alcatraz and I did not provide a release to Maid or Maid's Attorneys. Case law establishes that a party has the right to file a Rule 60(b) motion after entering into a consent judgment. (MIST-1 Doc.385-Dec#6:¶79.) My motions and declarations as regards the contract, tortious interference, perjury, and false pleadings have shown a meritorious claim -- detailed with evidence and declarations that establish that there was a binding oral contract and there was no valid claim for tortious interference. (MIST-1 Doc.361-Dec#4-especially-Exhs.24,25.) (MIST-1 Doc.377-Amended_Dec#3-especially-Exhs.24,25,9,22.) (MIST-1 Doc.385-Dec#6:¶¶80-81.) There are certainly exceptional circumstances in this case. Judge Evans' actions prevented Alcatraz and me from being able to handle MIST-1 as we needed while dealing with dishonest Maid and Maid attorneys. This is an unusual and extreme situation where principles of equity *mandate* relief. (MIST-1 Doc.362-Dec#1:¶72-73; MIST-1 Doc.377-Amended_Dec#3; MIST-1 Doc.362-Dec#1; MIST-1 Doc.361-Dec#2; MIST-1 Doc.362-Dec#4; MIST-1 Doc.378-Dec#5; MIST-1 Doc.385-Dec#6.) Some courts have held that attorney error comes within the scope of 60(b) (6) even though it may not constitute "excusable neglect" under 60(b) (1). I argue that gross neglect of Mr. Raley is a valid claim under 60(b)(6). The failure to file the Bazzo Deposition was devastating. Mr. Raley made many other errors. He failed to

inform Judge Evans of the importance of documents that were in the record. The record before the court shows that Maid had $10,000 in prepayments from Alcatraz that would have defeated the Tortious Interference claim, the only claim of Maid. (MIST-1 Doc.362-Dec#1:¶37; MIST-1 Doc.251-Pg.31) Mr. Raley failed to file declarations of Alcatraz employees. These declarations provide important evidence on various aspects of this case. (MIST-1 Doc.362-Dec#4:¶38-43,Exhs.1-10.) Mr. Raley failed to file Amended Dec#3 and the 28 exhibits thereto; this information was in Mr. Raley's hands prior to summary judgment filings. (MIST-1 Docket.) Mr. Raley failed to file the declarations of 762 Alcatraz customers. These declarations prove that the complaints alleged by Maid did not take place. (MIST-1 Doc.368; MIST-1 Doc.362-Dec#1:¶44-46.) Maid was unable to obtain a single affidavit from a customer claiming a complaint prior to the breach by Maid. (MIST-1 Doc.362-Dec#1:¶45) Mr. Raley failed to ever properly raise the issue of false statements, perjury, Rule 11 violations, and other abuse. The Eleventh Circuit was unaware of this on appeal despite the absolute insistence of Alcatraz and me in writing that Mr. Raley and Mr. Penland make this a key point in the appeal. This shows bias.

584. **BIAS #484** – Due to fraud upon the courts, this case has been a grave miscarriage of justice and this also qualifies as a Rule 60(b)(6) action. 60(b(1)-(5) do not encompass gross neglect, fraud upon the court, or extraordinary circumstances. The extent of the fraud upon the court is massive. "Courts . . . must apply subsection (b) (6) only as a means to achieve substantial justice

when something more than one of the grounds contained in Rule 60(b)'s first five clauses is present." "The 'something more' . . . must include unusual and extreme situations where principles of equity *mandate* relief." The Supreme Court has established that relief should only be granted in "extraordinary circumstances." The purpose of a Rule 60(b) motion is to permit the district court to reconsider matters so as to correct errors *or injustices*. The Eleventh Circuit has held that a Rule 60(b) (6) movant must persuade the court that the circumstances raised in a motion are sufficiently "extraordinary" to warrant such relief and whether to grant the requested relief is a matter for the district court's sound discretion. The Court of Appeals has characterized this umbrella provision as a "grand reservoir of equitable power to do justice in a particular case when relief is not warranted by the preceding clauses." Judgment was obtained by Maid due to fraud, misrepresentation, and misconduct. This conduct prevented Alcatraz and me from being able to fully and fairly present our case. There was no trial. Judge Evans' judgment was tainted by fraud, misconduct, and misrepresentation. (MIST-1 Doc.362-Dec#1:¶¶48-58,Dec#6:¶¶45-58.) The judgment was unfairly obtained. Judge Evans wrongly ignored the fraud allegations and did absolutely nothing about it. (MIST-1 Doc.385-Dec#6:¶58.) Maid's attorneys participated knowingly in these wrongs and suborned perjury. (MIST-1 Doc.362-Dec#1:¶57.) Judge Evans ignored the lies, perjury, and false sworn pleadings. (MIST-1 Doc.174-Pgs.34,45-47,23-25,27-28.) Judge Evans was biased and made improper rulings on many issues. (MIST-1 Doc.385-Dec#6:¶46.) Maid and

Maid's Attorneys have not denied under oath under penalty of perjury before a notary that Maid's Attorneys engaged in unethical conduct, though given ample opportunity. (MIST-1 Doc.385-Dec#6:¶47.) Have the courts ever had a case where the false statements topped 1,000? Where the judge made as many as 240 false statements in orders and invented facts? Where the attorneys committed so much wrongdoing? There could not be more extraordinary circumstances than in MIST-1. Judge Evans was required to recuse herself, but she failed to do so. This shows bias.

585. **BIAS #485** – Judge Evans failed to properly consider the motion for recusal under 28 U.S.C. 144 and 28 U.S.C. § 455. Case law says a court must pass on the legal sufficiency of an affidavit, and all factual allegations must be taken as true. Judge Evans did not consider if the motion (MIST-1 Doc.361) was procedurally sufficient or substantively sufficient, did not grant the motion, and failed to have another judge designated. "Whenever a party to any action or proceeding, civil or criminal, shall make and file an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or in favor of any opposite party to the suit, such judge shall proceed no further therein, but another judge shall be designated...." "...the tribunals of the country shall not only be impartial in the controversies submitted to them, but shall give assurance that they are impartial, free, to use the words of the section, from any 'bias or prejudice' that might disturb the normal course of impartial judgment. And to accomplish this end, the section

withdraws from the presiding judge a decision upon the truth of the matters alleged. Its explicit declaration is that, upon the making and filing of the affidavit, the judge against whom it is directed shall proceed no further therein, but another judge shall be designated.... This shows bias.

586. **BIAS #486** – Judge Evans erred by claiming that I did not enumerate meritorious reasons for a reasonable person to doubt the impartiality of Judge Evans. The May 22, 2009 Order says: "Windsor's affidavit gives no foundation for this contention other than that he felt that Judge Evans' rulings are unfair." (MIST-1 Doc.390-Pg.5,Footnote-2.) This is simply blatantly false. I have shown pervasive bias and dishonesty by Judge Evans, including approximately 200 false statements in the PI Order and SJ Order, withholding evidence, obstruction of justice, fraud upon the courts, and violations of due process. Dec#2 (MIST-1 Doc.361) provides 94 pages and 361 paragraphs of meritorious reasons. Amended Dec#3 (MIST-1 Doc.377) contains 28 exhibits with 2,410 pages of sworn testimony that are detailed analysis with citations showing that Judge Evans made as many as 200 false statements in the PI Order and SJ Order. Dec#6 (MIST-1 Doc.385) provides a long list of reasons. The Motion to Recuse listed 13 categories of reasons. (MIST-1 Doc.361-Dec#2:¶¶9-91.) The hopeless bias of Judge Evans is demonstrated by such outlandish statements. Judge Evans erred because the impartiality of the judge might reasonably be questioned. Judge Evans failed to apply the proper standard. The test is whether an objective, disinterested, lay observer, fully informed of the

facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality. I contend that the average reasonable person, knowing all the facts, would entertain doubt about the judge's impartiality. My declarations state very clearly the facts and reasons for the belief that bias and prejudice exists. Dates, times, places, circumstances, and statements are itemized in Dec#2 (MIST-1 Doc.361) and Dec#7 (MIST-1 Doc.381). In Dec#2, ¶¶9-12 discuss withholding of documents; ¶¶13-28 discuss that Judge Evans made fact decisions in a jury trial case; ¶¶29-36 discuss that Judge Evans established a fixed view about pending trial matters; ¶¶37-49 discuss the discovery denied by Judge Evans; ¶¶50-54 discuss that Judge Evans did not allow Alcatraz and me to depose witnesses; ¶¶55-56 discuss that Judge Evans ignored lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations in the hundreds by Maid; ¶¶57-67 discuss that Judge Evans favored Maid in all rulings; ¶¶68-70 discuss that Judge Evans considered testimony that was not to be considered; ¶¶71-83 discuss that Judge Evans distorted the facts and the law to make rulings in favor of Maid; ¶¶84-85 discuss that Judge Evans demonstrated bias and prejudice against Windsor, a pro se party and a male; ¶¶86-88 discuss that Judge Evans improperly considered hearsay as evidence; ¶¶89-91 discuss that Judge Evans failed to provide due process and equal protection to the Defendants; ¶92 discusses that Judge Evans will be a witness in this matter, and a Judicial Misconduct Complaint has been made against her regarding this case. See MIST-1 Doc.406 and MIST-1 Doc.470. This shows bias.

587. **BIAS #487** – Judge Evans erred by claiming that recusal and consideration of motions by another judge would ultimately make no difference as to the outcome. (MIST-1 Doc.390-Pg.5.) The only valid consideration under the law is whether a reasonable person might doubt the judge's impartiality. Judge Evans has no idea how another judge would view the evidence and act, and it is irrelevant. My testimony is the only evidence before Judge Evans, and I say that Alcatraz and I will be meritorious. This shows bias.

588. **BIAS #488** – Judge Evans failed to consider that the cumulative effect of the facts presented would be grounds for recusal. This is a case of pervasive bias. Judge Evans established a position that A&W were wrong and that their case didn't matter. (MIST-1 Doc.381-Dec#7:Pgs.13-14) When all of the evidence is considered, this is absolutely a case for recusal. Where a number of facts considered separately would not be grounds for recusal, the cumulative effect of those facts considered together may be a basis for recusal. This shows bias.

589. **BIAS #489** – The District Court erred by improper consideration of recusal under 28 U.S.C. § 144. Requirement #1: The affidavit in support must state the facts and the reasons for the belief that bias and prejudice exist. The reasons for the belief must be material and stated with particularity. I met this requirement. Properly pleaded facts in a § 144 affidavit must be considered as true. If the judge to whom a timely motion is

directed determines that the accompanying affidavit specifically alleges facts stating grounds for recusal under section 144, the legal sufficiency of the affidavit has been established, and the motion must be referred to another judge for a determination of its merits. **Requirement #2**: A motion for recusal "shall be filed not less than ten days before the beginning of the term (session) at which the proceeding is to be heard. With the abolition of terms of court in 1963, this specific provision no longer applies. However, courts have held that a section 144 motion must be filed with reasonable promptness after the party learns of the facts that may call into question the judge's impartiality. The statute says nothing about what the timeliness requirement means where, as in this case, the recusal motion rests on events occurring after proceedings began. In such circumstances, some courts have required the affidavit to be filed 'at the earliest moment. In April 2009, upon obtaining the contracts that Judge Evans withheld, I finally had independent documentary proof of the bias. The Motion to Recuse was filed as soon as possible thereafter on April 24, 2009 simultaneously with a Motion to Reopen that established a new "proceeding" on day one of the "session" at which the proceeding was to be heard. (MIST-1 Doc.361;Doc.362.) **Requirement #3**: The affidavit of prejudice is to be accompanied by a certificate of counsel of record stating that it is made in good faith and attesting to the truthfulness and accuracy. The only person of record is me. Counsel of Record withdrew. (MIST-1 Doc.360; MIST-1 Doc.372; MIST-1 Doc.379.) The allegations of the certified affidavit must be accepted as true, and Judge Evans must act

in accordance with the mandate of 28 U.S.C. § 144 and recuse herself. The allegations in a section 144 affidavit must be "material and stated with particularity" and be such that "they would convince a reasonable person that a bias exists." I have stated material allegations with particularity as required by 28 U.S.C. § 144. It is the duty of the judge against whom a Section 144 affidavit is filed to pass upon the legal sufficiency of the facts alleged, but neither the truth of the allegations nor the good faith of the pleader may be questioned. Section 144 withdraws from the presiding judge a decision upon the truth of the matters alleged. This shows bias.

590. **BIAS #490** – Judge Evans erred by claiming that a pro se party was required to file a certificate of "counsel of record." The May 22, 2009 Order says: "Windsor has failed to file any certificate of counsel of record." (MIST-1 Doc.390-Pg.6:15-16.) I am pro se, so there is no "counsel of record." I was unable to obtain an attorney to represent him over fear of retribution for taking action against a federal judge. (MIST-1 Doc.381-Dec#7:¶5.) I asked every attorney I know in Atlanta to see if they would provide a certificate, as well as the Legal Aid Society and the ACLU. Each attorney was either unwilling due to concerns of reprisals, had conflicts, or were unavailable. (Dec#1-Doc.362);Dec#2- MIST-1 Doc.361;Amended_Dec#3-Doc.377;Dec#4- MIST-1 Doc.362;Dec#5- MIST-1 Doc.378;Dec#6- MIST-1 Doc.385;Dec#7- MIST-1 Doc.381) were sworn under penalty of perjury before a notary. Windsor did provide a certification of good faith. Windsor stated in a Declaration #1 (MIST-1 Doc.362) filed on April 24, 2009: "I hereby state that my motions and

declarations are made in good faith. James W. Penland has filed a motion to withdraw as my counsel." This was signed "William M. Windsor, Pro Se." (MIST-1 Doc.362-Dec#1:¶75.) I argue that if the sworn motion and affidavit are not sufficient, the law should be modified or extended to reflect that pro se parties do not have to submit a certificate from "counsel of record," since there is no such thing. History shows that the purpose of such a requirement was to ensure that the party, not the attorney, wanted to seek recusal. This does not apply with a pro se motion. It would be a violation of my legal and Constitutional rights to require that to qualify for protection under a statute, I have to meet an unnecessary requirement that infringes on my pro se rights that have proven impossible to meet despite best efforts. I have cited many cases that establish that a pro se party may sign his own Certificate of Good Faith. This shows bias.

591. **BIAS #491** – Judge Evans failed to consider my Constitutional justification for recusal. I am entitled, under the Constitution and its amendments, the decisions of the U.S. Supreme Court and other federal courts of appeal, and the laws of Congress, to an impartial and fair judge at all stages of the proceeding. Judge Evans has violated my civil and constitutional rights guaranteed in the First, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments to the U.S. Constitution under color of law. The Due Process Clause serves two purposes...One is to produce, through the use of fair procedures to prevent the wrongful deprivation of interests; ...the other is a guarantee of basic fairness, i.e.: "to make people feel

that they have been treated fairly. " (t)rial before an 'unbiased judge' is essential to due process. "justice must give the appearance of justice" Judge Evans has effectively denied my rights of equal protection under the law under Article VI of the Constitution. (MIST-1 Doc.361-Dec#2:¶ ¶88-90.) "even if there is no showing of actual bias", "due process is denied by circumstances that create the likelihood or the appearance of bias." This shows bias.

592. **BIAS #492** – Judge Evans failed to consider my motion to reopen the case under the Court's Inherent Powers. I filed the Motion to Reopen under Rule 60(b) **and** the Court's inherent powers. (MIST-1 Doc.385-Dec#6:¶6.) Judge Evans failed to address inherent powers. This shows bias.

593. **BIAS #493** – Judge Evans claimed my Rule 11 Motion for Sanctions was entirely lacking in merit. The May 22, 2009 Order says: "Windsor's motion is entirely lacking in substantive merit." (MIST-1 Doc.390-Pg.13:20.) (See MIST-1 Doc.363-MIST-1 Doc.364.) This is another bizarre finding. As listed above, I provided hundreds of pages of evidence of wrongdoing, and it was not controverted! (MIST-1 Doc.363; MIST-1 Doc.364.) This shows bias.

594. **BIAS #494** – Judge Evans denied my legal right to file a reply to responses to my motions. Maid filed its Responses to my Motions for Sanctions (MIST-1 Doc.370; MIST-1 Doc.371) on May 14, 2009. LR 7.1C, NDGa provides 10 days for me to file a Reply. I was denied that right. Judge Evans issued the May 22, 2009 Order on May 22, 2009 before I

could reply on the Motions for Sanctions and before my Reply on Motion to Reopen could be considered. (MIST-1 Doc.390). This proves bias.

595. **BIAS #495** – Judge Evans failed to consider that this case casts doubt on the integrity of the judicial process. Courts have said that violations of the Code of Conduct may give rise to a violation of 455(a) if doubt is cast on the integrity of the judicial process. I have cited hundreds of violations of the State Bar of Georgia Rules of Professional Conduct as well as numerous violations of the Code of Judicial Conduct. (MIST-1 Doc.363; MIST-1 Doc.364; MIST-1 Doc.474.) This case casts SERIOUS doubt on the integrity of the judicial process, and this should have been a recusal consideration. This shows bias.

596. **BIAS #496** – On May 22, 2009, I filed a motion for leaved to exceed page limitation. [MIST-1 Doc. 387.] My motion was submitted to Judge Evans by the clerk on June 11, 2009. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with **nary a word for 213 days.** This shows inexcusable bias. To even better prove the bias, consider what happened with Maid's motions to exceed page limitation. On May 11, 2009, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 365.] Two (2) days later on May 13, 2009, Judge Evans granted Maid's motion.[115] On January 22, 2007, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 143.] On February 9,

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[115] MIST-1 Doc. 369, and Exhibit O to the Second Pet. for Writ to DQ Judge Evans.

2007, Judge Evans granted Maid's motion.[116] On June 15, 2007, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 232.] On June 20, 2007, Judge Evans granted Maid's motion.[117] On July 23, 2007, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 246.] On July 24, 2007, Judge Evans granted Maid's motion.[118] On October 4, 2007, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 276.] On December 3, 2007, Judge Evans granted Maid's motion.[119] On October 30, 2007, Maid filed a motion for leave to file excess pages. [MIST-1 Doc. 298.] On November 5, 2007, Judge Evans granted Maid's motion.[120] Maid filed six (6) motions to exceed page limits. All were granted. The average time for Maid's motions to be granted was 15 days. Windsor filed one (1) motion to exceed page limits. It was ignored for 213 days and denied. This very graphically proves bias.

597. **BIAS #497** – On June 4, 2009, I filed a MOTION for Sanctions Against Robert J. Schul and Plaintiffs for Perjury, MOTION to Set Aside Orders/Judgments in This Case. Judge Evans ignored this motion and a companion motion requesting a hearing. My sworn affidavits were not

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[116] MIST-1 Doc. 164, and Exhibit H to the Second Pet. for Writ to DQ Judge Evans.
[117] MIST-1 Doc. 240, and Exhibit J to the Second Pet. for Writ to DQ Judge Evans.
[118] MIST-1 Doc. 248, and Exhibit K to the Second Pet. for Writ to DQ Judge Evans.
[119] MIST-1 Doc. 325, and Exhibit N to the Second Pet. for Writ to DQ Judge Evans.
[120] MIST-1 Doc. 301, and Exhibit M to the Second Pet. for Writ to DQ Judge Evans.

controverted. But Judge Evans denied these motions on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

598. **BIAS #498** – On June 4, 2009, I filed a MOTION for Sanctions Against Christopher Glynn and Plaintiffs for Perjury, MOTION to Set Aside Orders/Judgments in This Case. Judge Evans ignored this motion and a companion motion requesting a hearing. My sworn affidavits were not controverted. But Judge Evans denied these motions on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

599. **BIAS #499** – On June 4, 2009, I filed a MOTION for Sanctions Against Timothy P. Ruddy and Plaintiffs for Perjury, MOTION to Set Aside Orders/Judgments in This Case. Judge Evans ignored this motion and a companion motion requesting a hearing. My sworn affidavits were not controverted. But Judge Evans denied these motions on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

600. **BIAS #500** – On June 4, 2009, I filed three motions for hearings on my motions for Sanctions Against Timothy P. Ruddy, Robert J. Schul, and Christopher Glynn for Perjury and to Set Aside Orders/Judgments in MIST-1. Judge Evans ignored these motions. My sworn affidavits were not controverted. But Judge Evans denied these motions on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

601. **BIAS #501** – On June 4, 2009, I filed a MOTION to Compel Plaintiffs and Judge Orinda D. Evans by William M. Windsor. Judge Evans ignored this motion and a companion motion requesting a hearing. Judge Evans failed to respond to this motion which was filed against her. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

602. **BIAS #502** – On June 4, 2009, I filed the Second Motion to Recuse Judge Evans after she was served with a subpoena for a deposition as a fact witness in MIST-1. Judge Evans ignored this motion and a companion motion requesting a hearing. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

603. **BIAS #503** – On June 4, 2009, I filed a Motion for a Hearing on my Second Motion to Recuse Judge Evans. Judge Evans ignored this motion. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 201 days. This shows inexcusable bias.

604. **BIAS #504** – On June 10, 2009, I filed a MOTION to Disqualify Hawkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillips Lytle, and Marc W. Brown. Judge Evans ignored this motion. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22,

2009 with nary a word for 194 days. This shows inexcusable bias.

605. **BIAS #505** – On June 10, 2009, I filed a motion for a hearing on my MOTION to Disqualify Hawkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillips Lytle, and Marc W. Brown. Judge Evans ignored this motion. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 194 days. This shows inexcusable bias.

606. **BIAS #506** – On June 15, 2009, I filed an EMERGENCY MOTION for Stay. Judge Evans ignored this motion and a companion motion requesting a hearing. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 189 days. This shows inexcusable bias.

607. **BIAS #507** – On July 10, 2009, I filed a motion to strike Plaintiffs' responses due to violations of the FRCP and Local Rules and failure to serve me. Judge Evans ignored this motion. My sworn affidavits were not controverted. But Judge Evans denied this motion on December 22, 2009 with nary a word for 165 days. This shows inexcusable bias.

608. **BIAS #508** – On July 14, 2009, I filed a motion for extension of time to file replies. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 161 days. This shows inexcusable bias.

609. **BIAS #509** – On July 15, 2009, Maid filed a motion for an injunction to restrict my future filings. Judge Evans ignored this motion for 160 days until she granted the motion on December 22, 2009. The motion was granted without a show cause order and without a hearing. This violates the law and the case law in the Eleventh Circuit and the Supreme Court. The fact that Judge Evans ignored this motion for 160 days and then granted it is proof of bias.

610. **BIAS #510** – On July 16, 2009, I filed an EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "A lot of time, expense, and paper could be saved if the Court will hold a conference to discuss issues in this Civil Action. Because Windsor is pro se, and because of his confusion with some Federal Rules of Civil Procedure and the Local Rules, Windsor respectfully requests a conference with this Court and the attorneys involved. Windsor has absolutely no desire to do anything that is a problem for the Court or that is not in keeping with what is expected. Windsor is, however, committed to seeing this travesty of justice corrected, and he plans to file everything that seems to be allowed under the rules and the law until a hearing is held. Windsor hopes that a conference can streamline things for the Court. Windsor also hopes that a conference will allow Windsor an opportunity to appeal to the Court to allow a hearing where the wrongdoing can be definitively proven." Judge Evans ignored this motion for 159 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

611. **BIAS #511** – On July 16, 2009, I filed a Verified Complaint for Professional Misconduct of Maid's Attorneys and Judge Evans. This is a motion that requires a hearing by the Local Rules of the Northern District of Georgia. This is also a motion that requires immediate attention by Local Rule 83.1C of the Northern District of Georgia Judge Evans ignored this motion and never held a hearing. Judge Evans denied this motion on December 22, 2009 with nary a word for 159 days. This shows inexcusable bias.

612. **BIAS #512** – On July 16, 2009, I filed a motion for a hearing on the Verified Complaint for Professional Misconduct. This is a motion that requires a hearing by Local Rule 83.1C of the Northern District of Georgia. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 159 days. This shows inexcusable bias.

613. **BIAS #513** – On July 16, 2009, I filed an EMERGENCY Motion for Discovery on my Verified Complaint for Professional Misconduct. Judge Evans ignored this EMERGENCY motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 159 days. This shows inexcusable bias.

614. **BIAS #514** – On July 16, 2009, I filed a motion for sanctions on the Verified Complaint for Professional Misconduct. Judge Evans ignored this motion. Judge Evans denied this motion on

December 22, 2009 with nary a word for 159 days. This shows inexcusable bias.

615. **BIAS #515** – On July 16, 2009, I filed the Third Motion to Recuse Judge Evans after I filed the Verified Complaint of Professional Misconduct in MIST-1 charging Maid's attorneys and Judge Evans with gross misconduct. Judge Evans ignored this motion. Motions for recusal require immediate attention by the judge. Judge Evans denied this motion on December 22, 2009 after ignoring it for 159 days. This shows inexcusable bias, and it is a violation of my Constitutional rights.

616. **BIAS #516** – On August 4, 2009, I filed a motion for sanctions due to absolutely false statements in PLAINTIFFS' MOTION FOR PERMANENT INJUNCTION RESTRICTING FUTURE FILINGS BY WILLIAM M. WINDSOR signed by Mr. Anderson and in Maid's Response to Motion to Reopen the Case. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 140 days. This shows inexcusable bias.

617. **BIAS #517** – On August 4, 2009, I filed a motion for hearings on the motion for sanctions due to absolutely false statements in PLAINTIFFS' MOTION FOR PERMANENT INJUNCTION RESTRICTING FUTURE FILINGS BY WILLIAM M. WINDSOR signed by Mr. Anderson and in Maid's Response to Motion to Reopen the Case. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 140 days. This shows inexcusable bias.

618. **BIAS #518** – On August 4, 2009, I filed a SECOND EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "A lot of time, expense, and paper could be saved if the Court will hold a conference to discuss issues in this Civil Action. Because Windsor is pro se, and because of his confusion with some Federal Rules of Civil Procedure and the Local Rules, Windsor respectfully requests a conference with this Court and the attorneys involved. Windsor has absolutely no desire to do anything that is a problem for the Court or that is not in keeping with what is expected. Windsor is, however, committed to seeing this travesty of justice corrected, and he plans to file everything that seems to be allowed under the rules and the law until a hearing is held. Windsor hopes that a conference can streamline things for the Court. Windsor also hopes that a conference will allow Windsor an opportunity to appeal to the Court to allow a hearing where the wrongdoing can be definitively proven." Judge Evans ignored this motion for 140 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

619. **BIAS #519** – On August 7, 2009, I filed an amended motion for sanctions due to absolutely false statements in PLAINTIFFS' MOTION FOR PERMANENT INJUNCTION RESTRICTING FUTURE FILINGS BY WILLIAM M. WINDSOR signed by Mr. Anderson and in Maid's Response to Motion to Reopen the Case. This was filed because I made a mistake on my original motion. Judge Evans ignored this motion. Judge

Evans denied this motion on December 22, 2009 with nary a word for 137 days. This shows inexcusable bias.

620. **BIAS #520** – On August 20, 2009, I filed a motion to strike all of Maid's' motions and responses that were not supported by affidavits. The rule is that statements of fact must be accompanied by an affidavit, and Maid's Attorneys did not file affidavits. Maid had previously filed such a motion against me in 2007. Judge Evans denied this motion on December 22, 2009 with nary a word for 124 days. This shows inexcusable bias.

621. **BIAS #521** – On August 20, 2009, I filed a motion for sanctions due to false statements by Maid's Attorneys in responses to my motions. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 124 days. This shows inexcusable bias.

622. **BIAS #522** – On August 20, 2009, I filed a motion for a hearing on my motion for sanctions. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 124 days. This shows inexcusable bias.

623. **BIAS #523** – On August 24, 2009, I filed a motion for leave to file supplemental responses. [MIST-1 Doc. 528.] Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 120 days. This shows inexcusable bias.

624. **BIAS #524** – On September 15, 2009, I filed a motion to modify the injunction entered on August 7, 2007. [MIST-1 Doc. 547.] Changes were needed to enable Alcatraz and me to accept business that the injunction was not supposed to block. The motion also included extensive proof as to the illegality of the injunction. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 98 days. This shows inexcusable bias.

625. **BIAS #525** – On September 25, 2009, I filed a motion to lift the seal on the two contracts that were filed under seal in February 2007. [MIST-1 Doc. 561.] These documents provide the proof that MIST-1 must be reopened. Judge Evans ignored this motion as she ignored a motion to compel production and a subpoena. Judge Evans denied this motion on December 22, 2009 with nary a word for 88 days. This shows inexcusable bias.

626. **BIAS #526** – On September 28, 2009, I filed the THIRD EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "A lot of time, expense, and paper could be saved if the Court will hold a conference to discuss issues in this Civil Action. I have absolutely no desire to do anything that is a problem for the Court or that is not in keeping with what is expected. I am, however, committed to seeing this travesty of justice corrected, and I plan to file everything that seems to be allowed under the rules and the law until a hearing is held. I hope that a conference can streamline things for the Court. I also hope that a conference will allow me an opportunity to appeal to

the Court to allow a hearing where the wrongdoing can be definitively proven. I have lost over one million dollars in this civil action. I have never been granted a conference or an evidentiary hearing in the four years since this action was filed. This is a violation of my Constitutional rights, and it is simply utterly ridiculous." Judge Evans ignored this motion for 85 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

627. **BIAS #527** – On September 28, 2009, I filed an EMERGENCY MOTION FOR HEARING. The motion included these points: "Windsor pleads with this Court to schedule an evidentiary hearing. Windsor's Constitutional rights have been violated and abused by this Court. Relief is desperately needed. [Dec #86 ¶11.] In this civil action, this Court has shown absolutely no respect for Windsor's legal rights. This Court has ignored the law and the facts. Windsor has been denied the most fundamental rights. [Dec #86 ¶13.] In this civil action, this Court has ignored the law and the rules. Judge Evans completely ignored the law and the regulations that govern preliminary injunctions. Judge Evans hasn't taken a single action in this case since May 20, 2009. That was 161 days ago. Motions that are open include Docket #'s 387, 393, 395, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 456, 458, 466, 468, 470, 472, 474, 486, 488, 490, 493, 511, 513, 515, 528, and 547. Nine motions were submitted to Judge Evans by the clerk on June 23, 2009; six were submitted on August 4, 2009; six were submitted on August 21, 2009; and five were submitted on September 8, 2009, but Judge Evans has failed to take any action. This is a complete and

total failure of Judge Evans to do the most basic things required of a judge. [Dec #86 ¶14.] In this civil action, this Court has arbitrarily ignored numerous requests for an evidentiary hearing. The opportunity to be heard is the most basic of rights, and this Court has denied that right. This Court has violated Windsor's First Amendment rights. [Dec #86 ¶23.]" Judge Evans ignored this motion for 85 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

628. **BIAS #528** – On September 28, 2009, I filed a motion to vacate the orders and judgment in MIST-1 due to violations of the Federal Trade Commission Act, Sherman Act, Clayton Act, and O.C.G.A. 43-4B. [MIST-1 Doc. 567.] Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 85 days. This shows inexcusable bias.

629. **BIAS #529** – On September 28, 2009, I filed a motion for judicial intervention. [MIST-1 Doc. 569.] The motion copied Judge Julie E. Carnes, Judge Joel F. Dubina, Chief Justice John C. Roberts, Attorney General Eric Holder, Senator Patrick Leahy, and Representative John Conyers. The motion was a plea for someone to help. The motion included the following: "Windsor has requested evidentiary hearings on 10 or more occasions, and he has requested as many as six conferences, and he has never been granted a hearing or a conference. A Complaint of Judicial Misconduct was filed, and the judges of the Eleventh Circuit ignored it. A Verified Complaint of Professional Misconduct has been filed in this civil action pursuant to the Local Rules, and

this Court has ignored it. In fact, this Court has ignored everything in this case for 161 days. Windsor's Constitutional rights have been violated repeatedly, but no one in the judiciary seems to care. The judges of the Northern District of Georgia and the Eleventh Circuit seem intent on covering up what has happened and violating Windsor's Constitutional and civil rights until he has been abused out of the judicial system with no relief. Windsor pleads for someone to do something. As unpleasant as it will be for these judges and the Attorney General to accept, Windsor states that there is not even a hint of justice in the Northern District of Georgia or the Eleventh Circuit. It appears to Windsor that there is corruption at every level of the federal judicial system in Atlanta, Georgia. Windsor believes it is unlikely that Judge Evans, Judge Carnes, or Judge Dubina will do anything. The only hope may be that someone else will exert some influence. All that Windsor asks is for an evidentiary hearing. Windsor has been unsuccessful in every effort to obtain a conference or evidentiary hearing. Judge Evans has not granted Windsor either a conference of an evidentiary hearing in the four years since this civil action was filed." Judge Evans ignored this motion as did all of the government officials who were named and copied. Judge Evans denied this motion on December 22, 2009 with nary a word for 85 days. This shows inexcusable bias.

630. **BIAS #530** – On September 28, 2009, I filed an EMERGENCY MOTION FOR RELIEF FROM VIOLATION OF CONSTITUTIONAL RIGHTS. [MIST-1 Doc. 571.] I filed this after

doling extensive research into Constitutional case law. The motion detailed many violations. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 85 days. This shows inexcusable bias.

631. **BIAS #531** – On October 26, 2009, I filed the FOURTH EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "Plaintiffs' attorneys are implying that Windsor has a mental problem and needs treatment. Windsor is not mentally ill, but such a serious accusation should be addressed in a conference and/or an evidentiary hearing. Windsor will also gladly submit to a mental examination. Plaintiffs' attorneys have accused Windsor of many things that he quite honestly does not understand. For example, they accuse Windsor of "multiplicitous" filings or some such term. Windsor believes every filing has had its own specific purposes, so he does not understand this. If Windsor has done anything wrong in any filings, he deserves to be told what that is and asked to make the appropriate corrections. Windsor has presented information to this Court indicating that his Constitutional rights have been seriously violated. This is a most serious matter that must be addressed. This Court has thus far ignored at least 10 requests for an evidentiary hearing and at least three requests for conferences within the last seven months. This Court has a Constitutional and judicial responsibility to conduct both a conference and a hearing." Judge Evans ignored this motion for 57 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

632. **BIAS #532** – On October 26, 2009, I filed the ELEVENTH EMERGENCY MOTION FOR HEARING. The motion included these points: "Windsor pleads with this Court to schedule an evidentiary hearing. Windsor's Constitutional rights have been violated and abused by this Court. Relief is desperately needed. More important than anything else is that this case is the biggest travesty of justice in the history of American civil jurisprudence. Judge Evans has been unwilling to address any of the issues. Refusal to address the issues has resulted in one of the biggest violations of Constitutional rights in the history of American civil jurisprudence. Someone in the judicial community must step up and insist that an evidentiary hearing be held." Judge Evans ignored this motion for 57 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

633. **BIAS #533** – On October 26, 2009, I filed a motion for waiver of representation by counsel. [MIST-1 Doc. 594.] Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 57 days. This shows inexcusable bias.

634. **BIAS #534** – On October 26, 2009, I filed a motion for a hearing on the EMERGENCY MOTION FOR RELIEF FROM VIOLATION OF CONSTITUTIONAL RIGHTS. [MIST-1 Doc. 601.] Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 57 days. This shows inexcusable bias.

635. **BIAS #535** – On October 26, 2009, I filed a motion for sanctions under Rule 11. [MIST-1 Doc. 604.] The motion began: "William M. Windsor ("Windsor") charges that Hawkins & Parnell ("H&P"), Mr. Carl Hugo Anderson ("Mr. Anderson") and Ms. Sarah L. Bright ("Ms. Bright") (jointly Plaintiffs' Attorneys") have made allegations that are false and have filed false pleadings, written motions, and other papers that are false and unsubstantiated and are thus a violation of FRCP Rule 11, the State Bar of Georgia Rules of Professional Conduct, and criminal statues pertaining to perjury and obstruction of justice." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 57 days. This shows inexcusable bias.

636. **BIAS #536** – On November 3, 2009, I filed a second motion to modify the injunction entered on August 7, 2007. [MIST-1 Doc. 606.] The motion explained that Alcatraz and I are bidding to obtain the rights to the "Maid of the Mist" boat service in Niagara Falls. The motion said: "The Defendants should not be enjoined from owning and operating the boat ride business under the name "Maid of the Mist." The injunction should be set aside for the reasons expressed in DEFENDANT WILLIAM M. WINDSOR'S MOTION TO MODIFY INJUNCTION. At the very least, for the reasons expressed herein, the injunction should be modified to make it clear that the injunction provides restrictions only as to the Plaintiffs." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 49 days. This shows inexcusable bias.

637. **BIAS #537** – On November 3, 2009, I filed another EMERGENCY MOTION FOR HEARING. The motion included these points: "The Defendants are among the bidders for the new lease to provide the boat service at Niagara Falls, so the Defendants may become the operators of the "Maid of the Mist" boat ride. Windsor is also seeking to have the license agreement with the State of New York declared invalid, and if he succeeds, the Defendants will be bidders in the United States as well. The Defendants should not be enjoined from owning and operating the boat ride business under the name "Maid of the Mist." The injunction should be set aside for the reasons expressed in DEFENDANT WILLIAM M. WINDSOR'S MOTION TO MODIFY INJUNCTION. At the very least, for the reasons expressed herein, the injunction should be modified to make it clear that the injunction provides restrictions only as to the Plaintiffs. Windsor requests an immediate hearing to discuss these issues and resolve this Motion because Windsor wants to be able to use the "Maid of the Mist" name in the bid that he will present within the next few months. The decision on the bids will be announced in Spring 2010, and bid packages are anticipated by December 2009." Judge Evans ignored this motion for 49 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

638. **BIAS #538** – On November 13, 2009, I filed the FIFTH EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "This civil action is one of the biggest travesties of

justice in the history of civil litigation. Windsor's Constitutional rights require that this Court grant a conference to discuss the various issues. Plaintiffs' attorneys are implying that Windsor has a mental problem and needs treatment. Windsor is not mentally ill, but such a serious accusation should be addressed in a conference and/or an evidentiary hearing. Windsor will also gladly submit to a mental examination. Windsor believes that Judge Evans is guilty of criminal acts, but he is certainly willing to have a face-to-face conference with Judge Evans in which she may explain her actions." Judge Evans ignored this motion for 39 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

639. **BIAS #539** – On November 25, 2009, I filed YET ANOTHER EMERGENCY MOTION FOR HEARING. The motion included these points: "This Court has repeatedly violated Windsor's Constitutional rights and rights to due process by ignoring Windsor's motions and denying Windsor any opportunity to present evidence and examine witnesses in court." Judge Evans ignored this motion for 27 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

640. **BIAS #540** – On November 25, 2009, I filed the SIXTH EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "This Court has thus far ignored at least 11 requests for an evidentiary hearing and at least four requests for conferences within the last eight months. This Court has a Constitutional and judicial responsibility to conduct both a conference and a

hearing. Windsor believes that the actions and inactions of Judge Evans should be referred to a Grand Jury. Windsor believes that Judge Evans must be impeached, tried, and convicted for her illegal and improper actions." Judge Evans ignored this motion for 27 days. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

641. **BIAS #541** – On November 25, 2009, I filed a motion for sanctions under Rule 11. [MIST-1 Doc. 635.] This was the motion previously withdrawn. It was refilled after the required notice period for Maid and Maid's Attorneys. The motion began: "William M. Windsor ("Windsor") charges that Hawkins & Parnell ("H&P"), Mr. Carl Hugo Anderson ("Mr. Anderson") and Ms. Sarah L. Bright ("Ms. Bright") (jointly Plaintiffs' Attorneys") have made allegations that are false and have filed false pleadings, written motions, and other papers that are false and unsubstantiated and are thus a violation of FRCP Rule 11, the State Bar of Georgia Rules of Professional Conduct, and criminal statues pertaining to perjury and obstruction of justice." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009 with nary a word for 27 days. This shows inexcusable bias.

642. **BIAS #542** – On December 4, 2009, I replied to motions to strike filed by Maid with my own MOTIONS TO STRIKE. [MIST-1 Doc. 646, 649, 652, 655, 658, and 661. The six motions were filed due to violation of several rules by Maid's Attorneys. Judge Evans ignored these motions. Judge Evans

denied this motion on December 22, 2009. This shows inexcusable bias.

643. **BIAS #543** – On December 4, 2009, I filed YET ANOTHER EMERGENCY MOTION FOR HEARING. The motion included this point: "Windsor yet again requests an immediate hearing to discuss the issues pending before this Court." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

644. **BIAS #544** – On December 4, 2009, I filed the SEVENTH EMERGENCY MOTION FOR CONFERENCE. The motion included these points: "This Court has thus far ignored at least 12 requests for an evidentiary hearing and at least five requests for conferences within the last eight months. This Court has a Constitutional and judicial responsibility to conduct both a conference and a hearing. Windsor believes that the actions and inactions of Judge Evans should be referred to a Grand Jury. Windsor believes that Judge Evans must be impeached, tried, and convicted for her illegal and improper actions." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

645. **BIAS #545** – On December 7, 2009, I filed a VERIFIED MOTION TO DISQUALIFY JUDGE EVANS. The motion included these points: "Any reasonable person would feel that Judge Evans is likely to be biased against Windsor in light of his efforts to have her referred to a Grand Jury, arrested, tried, convicted, sent to prison, disbarred,

and impeached. JUDGE ORINDA D. EVANS MUST BE DISQUALIFIED DUE TO CHARGES OF PERJURY AND OBSTRUCTION OF JUSTICE. Judge Evans must be disqualified due to fraud upon the court. Judge Evans has violated the Defendants' civil and constitutional rights under color of law. Judge Evans should be disqualified for ex parte communication with Plaintiffs' Attorneys. Judge Evans ignored lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations in the hundreds by the Plaintiffs. Windsor is entitled under the Fifth Amendment to the "absolute right" to an impartial tribunal. Judge Evans should be disqualified because Judge Evans is now a witness in this matter. Judge Evans has been biased and has not been impartial. Judge Evans must be disqualified due to bias. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Evans. Judge Evans has demonstrated bias against men and pro se parties. Judge Evans must have extrajudicial bias because her rulings make no sense. This is a case of pervasive bias. Judge Evans established a fixed view about substantive pending trial matters. Judge Evans has an interest in the outcome of this case because of the legal complaints of wrongdoing charged against her. Failure to follow proper procedure has resulted in a violation of Windsor's civil rights as Judge Evans acted in the absence of all jurisdiction." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

646. **BIAS #546** – On December 7, 2009, I filed an EMERGENCY MOTION TO COMPEL

PRODUCTION OF DOCUMENTS AND MOTION FOR CONTEMPT OF COURT BY JUDGE EVANS. The motion included this point: "In September 2009, Windsor served a subpoena on Judge Orinda D. Evans ("Judge Evans") for production of documents. The subpoena was valid, signed by the District Court Clerk. Judge Evans did not respond and did not produce the documents. FRCP Rule 45 (e) provides that "The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena." Windsor moves this Court to find Judge Evans in Contempt of Court." Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

647. **BIAS #547** – On December 7, 2009, I filed a MOTION TO STRIKE. [MIST-1 Doc. 678. Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

648. **BIAS #548** – On December 14, 2009, I filed the EIGHTH EMERGENCY MOTION FOR CONFERENCE. [MIST-1 Doc. 692.] The motion included these points: "This Court has thus far ignored at least 13 requests for an evidentiary hearing and at least six requests for conferences within the last nine months. This Court has a Constitutional and judicial responsibility to conduct both a conference and a hearing. Windsor believes that the actions and inactions of Judge Evans should be referred to a Grand Jury. Windsor believes that Judge Evans must be impeached, tried, and convicted for her illegal and improper actions."

Judge Evans ignored this motion. Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

649. **BIAS #549** – On December 18, 2009, I filed an EMERGENCY MOTION TO CLEAR THE DOCKET. [MIST-1 Doc. 702.] The motion included these points: "Windsor offers a proposal to clear this Court's docket of all pending motions. The proposal is very simple: " If Plaintiffs' Attorneys can merely cite the document and page number in the record of the testimony that Plaintiffs' Attorneys have alleged to the Eleventh Circuit, he will withdraw all motions in Civil Action No. 1:06-CV-0714-ODE and Civil Action No. 1:09-CV-01543-WSD and all related appeals. Windsor will sign an agreement, agree to an injunction to pursue no further actions, and agree to an injunction that will prohibit him from filing any civil actions in the Northern District of Georgia or the Eleventh Circuit without leave of the Court. This is the testimony that Plaintiffs' Attorneys have alleged: "...he [Windsor] ... testified that he sold consumers worthless vouchers as part of his campaign to injure Maid." This statement appears on page 16 of the BRIEF OF PLAINTIFFS / APPELLEES MAID OF THE MIST CORPORATION AND MAID OF THE MIST STEAMBOAT COMPANY LIMITED ("Plaintiffs' Brief") filed in Appeal No. 09-14735-D on November 4, 2009. Windsor never gave any such testimony! Windsor never sold a voucher. Windsor never testified that he sold a voucher. Windsor never had any dealings with worthless vouchers. Windsor never testified that he had any dealings with worthless vouchers. Windsor never did anything with consumers to injure Maid.

Windsor never testified that he did anything with consumers to injure Maid." Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

650. **BIAS #550** – On December 18, 2009, I filed A SUPER DUPER EXTREMELY URGENT EMERGENCY MOTION FOR HEARING. [MIST-1 Doc. 704.] The motion included this point: "Windsor implores this Court to conduct an evidentiary hearing immediately. This Court cannot continue to condone perjury, obstruction of justice, lying, and cheating by the Plaintiffs and Plaintiffs' Attorneys. It will be simple for Windsor to prove what has taken place." Judge Evans denied this motion on December 22, 2009. This shows inexcusable bias.

651. **BIAS #551** – Judge Evans ignored her duties in MIST-1 from May 22, 2009 to December 22, 2009. [See Exhibit A to the Second Petition for Writ of Mandamus to Disqualify Judge Orinda D. Evans.] This is a violation of the Oath of Office, Code of Judicial Conduct ("CJC"), FRCP, the law, and my Constitutional rights. 28 U.S.C. § 455 requires that judges recuse themselves sua sponte whenever appropriate. Judge Evans has ignored this obligation as well. 28 U.S.C. § 455 requires that judges recuse themselves when they have an interest in the outcome of a lawsuit, when there is a conflict of interest, and when reasonable people would say there appears to be a lack of impartiality. So, when Judge Evans' attorney filed a motion for Judge Evans in MIST-1 and began working with Maid's attorneys against me on issues in MIST-1, the Deposition Action, and MIST-2, there became a huge

conflict with ex parte communication. When Judge Evans was named in the Verified Complaint of Professional Misconduct and accused of perjury, she had an interest in the outcome of MIST-1. And when Judge Evans was sued by me and lined up as a defendant along with Maid and Maid's attorneys, she had a major interest in the outcome of MIST-1, a conflict of interest. All reasonable people would say there appears to be a lack of impartiality. No one in their right mind who is briefed on the facts could say that Judge Evans could be impartial. Her refusal to recuse herself is among the strongest proof of her bias. By ignoring pending motions, including the Verified Complaint of Professional Misconduct ("VCPM" – MIST-1 Doc. 474, incorporated herein as if attached hereto) against Judge Evans and others, Judge Evans violated my right to an impartial tribunal. Justices may not sit as adjudicators in cases in which they have an interest, yet Judge Evans did not disqualify herself and instead ignored all matters, including the VCPM and then dismissed the complaint filed against her! The inaction of Judge Evans for 213 days in 2009 severely impaired my ability to obtain a fair hearing and the relief that I need from the wrongdoing. My declarations are uncontroverted. Let me say that again: MY DECLARATIONS ARE UNCONTROVERTED. This means that nothing that I have said under oath has been contradicted in any manner by Judge Evans, Maid, or Maid's Attorneys. They have not filed a single affidavit, so they have no facts before the court. This means the ONLY FACTS THAT THIS COURT CAN CONSIDER ARE MY FACTS. So, please don't claim that the facts do not support my Petition, because I know they do, and you know

there is no evidence for you to consider to the contrary. You certainly can't consider the orders of Judge Evans and Judge Duffey, because they have committed perjury. This Court must accept my facts. Detailed background facts regarding the professional misconduct of Judge Evans are provided in declarations in this Affidavit and in MIST-1 Docs. 406 and 462. My Constitutional rights have been violated. These violations are detailed in my Emergency Motion for Relief from Violation of Constitutional Rights. [MIST-1 Doc. 571, incorporated herein as if attached hereto] and in my PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE ORINDA D. EVANS AND JUDGE JULIE E. CARNES TO PERFORM STATUTORY DUTIES AND CORRECT VIOLATIONS OF WINDSOR'S CONSTITUTIONAL RIGHTS filed on February 17, 2010. Judge Evans has ignored her judicial and ministerial duties in MIST-1 since May 22, 2009. [See Exhibit A to the Second Petition for Writ of Mandamus to Disqualify Judge Orinda D. Evans. This is a violation of the Oath of Office, CJC, FRCP, the law, and my Constitutional rights, including First Amendment rights to petition the Government for a redress of grievances. A trial court has a ministerial duty to consider and rule on motions properly filed and pending before the court and mandamus may issue to compel the judge to act when a judge has refused to do so. Judges can be given a little slack, but 213 days is the entire rope and then some. When she issued a mega order on December 22, 2009, she ignored the facts and the law, and her order must be voided. Judge Evans must be found to have ignored her ministerial and judicial duties. This shows bias.

652. **BIAS #552** – Judge Evans has violated Canon 3 B. (8) of the CJC. Judges shall dispose of all judicial matters fairly, promptly, and efficiently. Judge Evans has not demonstrated due regard for my rights to be heard and to have issues resolved without unnecessary cost or delay. The 213 day disappearance from MIST-1is inexcusable. This proves bias.

653. **BIAS #552** – On December 22, 2009, Judge Evans ordered an injunction against me that is illegal. She has denied my access to the courts. For all the details, see the PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE ORINDA D. EVANS AND JUDGE JULIE E. CARNES TO PERFORM STATUTORY DUTIES AND CORRECT VIOLATIONS OF WINDSOR'S CONSTITUTIONAL RIGHTS filed on February 17, 2010. Judge Evans has denied my access to the courts, and she acted without jurisdiction in violating my rights.

654. **BIAS #553** – In the December 22, 2009 Order, Judge Evans said: "Because Windsor's motions are not cognizable in the face of a previously entered final judgment, and the Court of Appeals has previously upheld this Court's order declining to reopen the judgment, and the motions otherwise lack merit, Windsor's motions will be DISMISSED." Cognizable means unable to be tried before a particular court. This is false. If this had been true, Judge Evans should have provided authority for this on May 22, 2009 rather than waiting 214 days without saying or doing anything. The truth is that these motions were cognizable. The Court of

Appeals improperly denied only one motion to reopen. This December 22, 2009 Order improperly wiped out others. This PROVES bias.

655. **BIAS #554** – In the December 22, 2009 Order, Judge Evans claimed "Because this case is a closed case, and cannot be reopened, all of Windsor's motions fail for that reason alone." This is false. Cases may not be closed from post-judgment actions. In this case, Judge Evans specifically retained jurisdiction in the Final Order and Judgment. [MIST-1 Doc. 354.] Rule 60(b), Rule 60(d), and the Court's Inherent Powers allow cases to be reopened. Northern District of Georgia Local Rule 83.1 C provides that motions for professional misconduct must be filed in the case where the misconduct took place, and there are no restrictions as to when this is done. Claiming this case cannot be reopened is a ruse used by Judge Evans to avoid answering for her criminal actions. Judge Evans provided NO AUTHORITY for this. I have cited cases that prove that years after cases were "closed" even after consent final order and judgment, the cases have been reopened. Such a case from the Eleventh Circuit is ***Burke v. Smith***, 252 F.3d 1260 (11th Cir. 2001). This proves bias.

656. **BIAS #555** – In the December 22, 2009 Order, Judge Evans noted that "Twenty-five of Windsor's motions' solely request that the Court hold a hearing or conference to address contentions raised in his motions for substantive relief." She notes that the local rules allow judges to decide when they will hold hearings and conferences. Judge Evans claimed "Windsor's motions do not warrant an oral

hearing or conference." OUTRAGEOUS! This woman will say and do anything to further her corrupt efforts. While the Local Rules do let judges make decisions on hearings, this is a ridiculous dodge. Some motions REQUIRE hearings in order to provide Constitutional rights, and the Local Rules do not eliminate these requirements. I submit that Judge Evans' use of this Local Rule makes the rule unconstitutional. My Verified Complaint of Professional Misconduct REQUIRES a hearing as per the Local Rules. Issuing an injunction REQUIRES a hearing. Due Process REQUIRES that parties be given a chance to be heard. If Judge Evans had no intention of ever granting a hearing, she should have said so on May 22, 2009 or at any time over the next 213 days rather than saying and doing nothing. This order PROVES bias. There is NO JUSTIFICATION whatsoever for Judge Evans to have refused a hearing or a conference in light of the issues that I have raised. What Judge Evans has said is that since the Local Rules allow me to decide if I will hold a hearing or conference, I claim the following: Windsor doesn't have any right to have a hearing or conference in four years; perjury and subornation of perjury and other criminal violations do not warrant any type of inquiry; Windsor's Constitutional rights are less important than my desire to avoid conviction and impeachment; etc., etc., etc.

657. **BIAS #556** – In the December 22, 2009 Order, Judge Evans ruled: "As the May 22 order fully considered and denied Windsor's first motion for recusal, however, Windsor's subsequent motions to that same effect are DISMISSED AS MOOT."

This PROVES bias. This is so wrong. There were additional issues raised in the subsequent recusal motions; a lot happened and didn't happen since the May 22, 2009 Order; and Judge Evans had a legal obligation to deal with these rather than call them "moot." (And the May 22, 2009 Order was a fraud by Judge Evans; she ignored the facts and the law and committed perjury.)

658. **BIAS #557** – In the December 22, 2009 Order, Judge Evans said my efforts to get the contracts filed under seal disclosed were dismissed as moot. This PROVES bias. The reason for disclosing these documents has been made abundantly clear, and Judge Evans' actions are an absolute abuse of discretion. She is committing obstruction of justice and a massive violation of my Constitutional rights by denying me access to these documents that will prove fraud upon the courts.

659. **BIAS #558** – In the December 22, 2009 Order, Judge Evans ruled "As the Court has previously refused to reopen the case pursuant to Rule 60(b), however, the case remains closed." This PROVES bias. My additional motions raised very specific issues including one that Judge Evans previously claimed had not been presented. Judge Evans does not have the authority to dismiss motions to reopen the case without considering the issues. Case law provides that multiple motions to reopen may be filed and must be considered. An Eleventh Circuit case (***Outler v. United States***, No. 05-15250 (11th Cir. 05/11/2007)) involved a closed 1995 case. Other Eleventh Circuit cases show that "closed cases" are reopened with Rule 60(b) motions,

such as ***Clarke v. Health & Human Services***, No. 05-15698 (11th Cir. 04/17/2006). A requirement for reopening a closed case was expressed in ***McKinney v. Pate***, 20 F.3d 1550 (11th Cir. 05/05/1994).

660. **BIAS #559** – In the December 22, 2009 Order, Judge Evans ruled that "Windsor's motions requesting modification of the injunction are DISMISSED." Her justification is that the case is closed. But the issues raised are extremely important, and failing to address the issues PROVES bias. Judge Evans specifically retained jurisdiction to deal with the injunction in the Final Order and Judgment. This dismissal is based solely on bias.

661. **BIAS #560** – In the December 22, 2009 Order, Judge Evans made all of my motions for sanctions go away by ruling "they entirely lack substantive merit and did not comply with the Rule 11 'safe harbor' requirement. This is false, and it proves bias. One of the motions did comply with the safe harbor requirement. [MIST-1 Doc. 635.] The Docket (Exhibit A to the Second Petition for Writ of Mandamus to Disqualify Judge Orinda D. Evans) clearly shows that the Motion for Sanctions was served on Maid's attorney on October 26, 2009, and the motion for sanctions was filed on November 25, 2009. This complies with the "safe harbor requirement."

662. **BIAS #561** – In the December 22, 2009 Order, Judge Evans claimed my motions for sanctions failed for noncompliance with Rule 11. This is bogus. Each of the motions for sanctions was

filed pursuant to more than one statute. Some were pursuant to Rule 60 and/or O.C.G.A.17-1-4 and/or the Court's Inherent Powers and/or Common Law. Some were pursuant to FRCP Rule 11, the State Bar of Georgia Rules of Professional Conduct, and the Court's Inherent Powers. One was pursuant to 83.1C., N.D.Ga. and 83.1F.(2), N.D.Ga. of the Civil Local Rules of Practice for the United States District Court for the Northern District of Georgia ("Local Rules"), the Court's Inherent Powers, Rule 11, and other Rules that the Court finds appropriate. Judge Evans ignored all of this. Using one technical requirement when Maid has hundreds of days notice shows Judge Evans' bias. Ignoring the multiple base3s for sanctions proves bias.

663. **BIAS #562** – In the December 22, 2009 Order, Judge Evans claim that the motions were entirely lacking in substantive merit is criminal. Massive proof of wrongdoing and violation of criminal statutes was provided. Anyone who can read will see that these motions were filled with substantive merit – filled with proof. The facts were not controverted! This is perjury, and Judge Evans should be prosecuted.

664. **BIAS #563** – In the December 22, 2009 Order, Judge Evans eliminates all of my motions to strike by saying: "Windsor has filed multiple motions to strike Plaintiffs' responses that he argues fail to comply with the Local Rules [Doc. 456, 484, & 511] However, the Local Rules provide that "[t]he court, in its discretion, may decline to consider any motion or brief that fails to conform to the requirements of [the Local Rules]." N.D.GA.R. 7.1(F)." So, Judge

Evans proves her bias by saying that she doesn't care to acknowledge the violations of the rules by Maid, so she lets them get away with them. She further proves her terminal bias by neglecting to mention the issues of the many false statements by Maid's Attorneys. Judge Evans has clearly sanctioned perjury and false pleadings by Maid's Attorneys by denying my motions to strike. Unbelievable bias. Criminal bias.

665. **BIAS #564** – In the December 22, 2009 Order, Judge Evans dismisses the motion for waiver of representation by saying "Windsor presents no compelling arguments indicating why the Court should ignore the settled rule in the Eleventh Circuit that all corporate litigants must be represented by counsel. Windsor's motion requesting leave to contravene that principle...is DENIED." This proves bias as the inability to obtain legal counsel due to fear of reprisals from Judge Evans and other federal judges is about as compelling as it gets. Alcatraz is eliminated from the ability to have its legal interests represented, and this is a violation of Constitutional rights. For complete details of how biased and improper this denial is, see the PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE ORINDA D. EVANS TO WAIVE REPRESENTATION BY COUNSEL FOR ALCATRAZ MEDIA, LLC AND ALCATRAZ MEDIA, INC. filed on February 17, 2010.

666. **BIAS #565** – In the December 22, 2009 Order, Judge Evans dismissed several important motions by claiming no legal authority was provided. There is always legal authority to do what is right.

Judge Evans' bias is proven by the fact that she ignored all of the issues. She ignored the issues because she cannot prevail based upon the facts and the law. She cited no case law whatsoever or her rulings except for one inapplicable case on corporate representation.

667. **BIAS #566** – In the December 22, 2009 Order, Judge Evans' dismissal of the motion to lift the seal is outrageous. She provided no legal authority, and she ignored the facts. This PROVES bias. It is inexcusable. For complete details on how wrong this dismissal is, see WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE EVANS TO LIFT SEAL filed February 17, 2010.

668. **BIAS #567** – In the December 22, 2009 Order, Judge Evans claims "Local Rule 83.1 (F) (2) (a) permits the district judge to whom a litigant or attorney directs a complaint of professional misconduct to terminate the inquiry if the question raised is unsupported or insubstantial. The Court concludes that the questions raised by Windsor's Verified Complaint of Professional Misconduct are unsupported and unsubstantiated by any credible evidence." This PROVES bias because there is extremely credible evidence. Judge Evans also violated the rules by not holding the required hearing and not dealing with this motion when it was filed. Local Rule 83.1 (F) (2) says: "**Upon receipt** of a complaint regarding the professional conduct of an attorney...." (emphasis added.) I filed the Verified Complaint of Professional Misconduct on July 16, 2009 [MIST-1 Doc. 474], and Judge Evans

dismissed it on December 22, 2009. 161 days does not qualify as "upon receipt." Judge Evans was obligated to deal with the motion when she was personally served with a copy on July 16, 2009 and when it was sent to her by the clerk as a submission on August 4, 2009. Judge Evans' bias is outrageous. Her actions are criminal.

669. **BIAS #568** – In the December 22, 2009 Order, Judge Evans claims "Windsor's complaints of misconduct have been raised, addressed, and denied on their merits repeatedly by this Court and others." This is false. Judge Evans never considered the misconduct – ever! She ignored it as the record of the court shows. She says these things because she is corrupt and biased.

670. **BIAS #569** – In the December 22, 2009 Order, Judge Evans completely foreclosed me from any access to the court. Her injunction violates the law and my Constitutional rights. This is fully explained in my PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE ORINDA D. EVANS AND JUDGE JULIE E. CARNES TO PERFORM STATUTORY DUTIES AND CORRECT VIOLATIONS OF WINDSOR'S CONSTITUTIONAL RIGHTS filed on February 17, 2010. This is a serious violation of the law. This PROVES bias.

671. **BIAS #570** – In the December 22, 2009 Order, Judge Evans claimed any further actions by me would be barred by the doctrine of res judicata. This proves bias as she could not possibly know what would be raise3d, when, or where. This proves bias. The entire order of December 22, 2009 is excellent

proof of the bias of Judge Evans. She ignores the facts. She ignores the law and doesn't even cite law to support her rulings. She is far worse than biased. She is corrupt, and she is attempting to cover up her criminal actions and misconduct.

672. **BIAS #571** – On January 6, 2010, Judge Evans had her clerk write a letter to me.[121] Judge Evans refused to allow me to file notices with the court that I needed to file to provide notice of appeals that I wanted to file with the Eleventh Circuit. She had her clerk return the unfiled documents with the letter. This is proof of damage from the illegal injunction issued by Judge Evans. She denied my access to the courts.

673. **BIAS #572** – On January 13, 2010, Judge Evans entered an order[122] that "permitted" me to file a response to a 28 U.S.C. § 1927 motion for sanctions against me. The illegal injunction[123] bars me from filing anything in MIST-1. For complete details on the illegality of the injunction and Judge Evans' violations of my Constitutional rights, see the PETITION FOR WRIT OF MANDAMUS TO COMPEL JUDGE ORINDA D. EVANS AND JUDGE JULIE E. CARNES TO PERFORM STATUTORY DUTIES AND CORRECT VIOLATIONS OF WINDSOR'S CONSTITUTIONAL RIGHTS filed on February 17, 2010. [Appeal

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[121] Exhibit R to the Second Pet. for Writ to DQ Judge Evans.
[122] MIST-1 Doc. 731, and Exhibit S to the Second Pet. for Writ to DQ Judge Evans.
[123] MIST-1 Doc. 723, and Exhibit Q to the Second Pet. for Writ to DQ Judge Evans.

No._____.] All of the actions and inactions identified are proof of bias.

674. **BIAS #573** – I was never granted an evidentiary hearing or a conference at any time in four years in MIST-1. The citizens of our country will be shocked when they learn that in the federal courts in Atlanta, you will not even be given an opportunity to speak to a judge or have your issues addressed in a hearing or a trial. Judge Evans has violated Canon 3 B.(7) of the CJC -- Judges shall accord to every person the right to be heard according to law, an essential component in a system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed. Judge Evans has made a total mockery of the Code of Judicial Conduct.

675. **BIAS #574** – In consideration of the issues raised by me, Judge Evans' refusal to schedule an evidentiary hearing is clear abuse of discretion. This Court must direct the District Court to conduct an evidentiary hearing on these charges.

676. **BIAS #575** – Judge Evans has violated many Canons of the CJC. I have a legal right to expect a judge to adhere to these Canons. It is just as important as a judge's right to expect citizens to adhere to laws. I have a legal right to expect Judge Evans to adhere to these Canons. This is just as important as a judge's right to expect citizens to adhere to laws.

677. I have received the "SHOW CAUSE ORDER" from Judge Evans dated March 10, 2010. It demonstrates bias because the law

overwhelmingly shows that I did not violate the injunction.

678. The SHOW CAUSE ORDER says that only one response can be filed. It indicates that it can be for me, Alcatraz, and Ryan, but it says that I cannot respond for Alcatraz and Ryan. It violates due process to require that four accused people/entities be limited to file one joint response.

679. Judge Evans will be a key witness in the contempt trial, and as this issue involves severe criticism of her as a judge, she is disqualified from presiding at the contempt trial and hearings unless I consent, and I do not give consent.

680. I have prepared a motion objecting to the SHOW CAUSE ORDER for failing to state the essential facts and other violations. This MOTION TO VACATE ORDER has been sent to Judge Evans with a MOTION FOR LEAVE TO EXCEED PAGE LIMITATIONS as I am not allowed to file anything in this court. According to the cases that I have reviewed, the SHOW CAUSE ORDER must state specifically what it is that we allegedly did wrong, and it does not do so. But there are many additional problems with the order.

681. Over the last four years, the term "kangaroo court" has come to mind repeatedly. I did a search online to get a precise definition of the term, and this is what Wikipedia says: "The colloquial phrase "kangaroo court" is used to describe judicial proceedings that, the speaker feels, deny due process rights in the name of expediency. Such

rights include the right to summon witnesses, the right of cross-examination, the right not to incriminate oneself, the right not to be tried on secret evidence, the right to control one's own defense, the right to exclude evidence that is improperly obtained, irrelevant or inherently inadmissible, *e.g.*, hearsay, the right to exclude judges or jurors on the grounds of partiality or conflict of interest, and the right of appeal. The outcome of a trial by "kangaroo court" is essentially determined in advance, usually for the purpose of providing a conviction, either by going through the motions of manipulated procedure or by allowing no defense at all." Wow, does that ever fit this case. In my opinion, Judge Evans subjected the Defendants to a Kangaroo Court.

682. In my opinion, the actions of Judge Evans in this case have been as bad as the judge who sued a dry cleaner for millions of dollars because they misplaced his pants for a few days.

683. I am not lacking in intelligence. I obtained a reasonably good college education and was accepted to law school, though I chose not to attend. I have a high IQ and qualified for Mensa. I estimate that I am probably as intelligent as the average to slightly below average attorney. However, when my 40 years of entrepreneurial business experience is factored in, I would rank much higher. So, when I research the law and write my motions and affidavits, there is plenty of intelligence and experience behind what I am doing. I will refuse to accept the lies, distortions, and dishonesty of any judge, and I am committed to

exposing the truth about the federal court system in Atlanta. As the owner of publishing companies for most of my 40-year career, I will publish a book about this experience. I originally wanted to title it "Lawless America," but I am now leaning toward "Screwed, Glued, and Tattooed" because I believe the books will jump off the shelves at Borders and Barnes and Noble with such a title.

684. I am 61 years old. I have been married for 38 years. I am the father of two and the grandfather of two. I worked throughout college and paid most of my school expenses working as a disc jockey and TV announcer before starting the first of my businesses as a junior in college in 1969. I earned a BBA degree in marketing from Texas Tech University where I was named to Who's Who, served as a Student Senator for two years, was the president of various student organizations, was one of three judges on the Faculty-Student Discipline Board, won a number of awards as a speaker and debater, and was involved in a wide variety of activities while working full-time, serving in the Army Reserve, and managing to make decent grades. I joined the Army Reserve during the Viet Nam War and spent six years in the Army Reserve. I was the "company clerk" working with commanding generals for most of those years.

685. I have been called "the father of the T-shirt industry" since I started the trade magazine and trade shows for the imprinted T-shirt business before anyone realized it was an industry. As a magazine publisher and trade show producer for most of my career, I have written hundreds of

magazine articles, manuals, and books, and I have spoken at trade shows and conferences throughout the US and in Europe and Asia.

686. I have employed thousands of people during my career during which I have owned or served as President or CEO of over 50 companies. I served as President of a $225 million annual revenue company for Goldman Sachs and CEO of a large company for Bain Capital, another mega-billion dollar financial group.

687. I have never murdered anyone (as many pro se litigants have). In fact, I have never been arrested or accused of a crime (until the contempt accusation), haven't been guilty of a traffic violation or parking violation in about 10 years, and didn't have a traffic accident in my first 42 years of driving. I have never smoked marijuana or used any drug of any type. I very rarely drink alcoholic beverages. No one in our family (wife, children or grandchildren) has ever been arrested or accused of a crime. None of them did as well as I have staying out of traffic accidents, but they are all truly wonderful people who are a benefit to society.

688. The lawsuit I have filed against Judge Evans, Maid, and Maid's Attorneys (Civil Action 1:09-CV-02027-WSD) is the first that I have ever filed pro se. I have had an attorney file only one lawsuit in my behalf in the last 17 years in the U.S. (and that was to evict a tenant who didn't pay the rent), and I had an attorney file one for me in Canada that regards Maid of the Mist. I always

show up for jury duty. We pay our bills, and we have an excellent credit record.

689. My wife and I love animals, have a cat that is like a third child, and we regularly donate to cat rescue organizations. I babysit for our granddaughters as often as possible and drive the first-grader's carpool on Thursdays. My wife and I attend Peachtree Presbyterian Church. I rarely use "coarse" language.

690. My mother died of breast cancer 31 years ago, and our family has supported breast cancer as our primary cause. My wife was friends with Susan G. Komen's sister, Nancy, and my wife was involved in the early days of establishing, supporting, and helping the Susan G. Komen Foundation. When my father became ill in January 2008, I stayed with him day and night for two months in the hospital and in his final days at a hospice. We never left him alone because his mother died when he was two, and his father was an entertainer who left him to literally live on his own throughout his pre-teen and teen years. I am the executor of his small savings "estate." I loan money to people in need and will do just about anything to help a friend. If you ask my friends, former employees, and associates, I believe they will say that I am extremely reliable and have one of the strongest senses of responsibility that you will find. I believe they will also say that I have an extreme sense of right and wrong. I go by the rules, and I believe everyone else should.

691. I provide this background so you will understand that you are not reading the words of a criminal, a derelict, a crazy person, or someone without any credibility. I am a decent, honest person who has been screwed, glued, and tattooed by Judge Evans, Maid, and Maid's attorneys. I will spend the rest of my life seeking justice in this case and in the federal court system. I plan to do everything humanly possible to attempt to get Judge Evans impeached, and based upon what I have seen thus far, I imagine I will similarly seek to get Judge Duffey impeached. I will add every dishonest appellate court judge that I encounter to the list.

692. Please do not insult my intelligence by claiming this Petition is frivolous or by ignoring the issues presented. If you sincerely feel that I am wrong legally about anything, please extend the courtesy of showing me the law and the case law that proves it. I will graciously accept the truth. But I have researched all of these issues, and my research was not looking for cases to support my position; I looked for all cases on each issue. So, I feel I am right. I have, however, learned that federal judges in Atlanta ignore the law, ignore the facts, twist the law, and twist the facts. Judge Evans and Judge Duffey cite cases that are out of date, cite cases that are not the law according to the Eleventh Circuit or the Supreme Court, and cite cases as justification when the cases do not apply. Their favorite technique is to totally ignore the facts and evidence before them.

693. When you consider what Judge Evans did at each step along the way in this case, her pervasive bias is very clear.

694. I contend that the average reasonable person, knowing all the facts, would easily conclude that Judge Evans' impartiality must be questioned.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that, to the best of my knowledge, the facts in the above petition are true and correct.

Executed this 22nd day of March, 2010.

/s_____
WILLIAM M. WINDSOR
Pro Se

3924 Lower Roswell Road
Marietta, GA 30068
Telephone: 770-578-1094
Facsimile: 770-578-1057
Email: bill@billwindsor.com

Sworn to before me, this 22nd day of March, 2010.

/s_____
Notary Public

Supreme Court, U.S.
FILED

10-690 NOV 18 2010

No. OFFICE OF THE CLERK

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,
Petitioner

v.

MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., AND JUDGE ORINDA D. EVANS,
Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS

APPENDIX – VOLUME 2

William M. Windsor
Pro Se
PO Box 681236
Marietta, GA 30068
770-578-1094

APPENDIX – VOLUME 2 CONTENTS [1]

Affidavit of William M. Windsor dated
November 9, 2010.....265

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[1] The affidavits, exhibits, and documents referenced in the affidavit provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them. The Petitioner could also provide an electronic copy of this Appendix with hyperlinks to all of the evidence.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
and MAID OF THE MIST STEAMBOAT
COMPANY, LTD., Plaintiffs

CIVIL ACTION NO.
v. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LLC, ALCATRAZ
MEDIA, INC. And WILLIAM M.
WINDSOR, Defendants

AFFIDAVIT OF WILLIAM M. WINDSOR

I, William M. Windsor, the undersigned, hereby declare under penalty of perjury:

697. My name is William M. Windsor ("Windsor"). I am over the age of 21, am competent to testify, and have personal knowledge of the matters stated herein.

698. I am a party to this action, and I am representing myself pro se. I am not an attorney.

699. I am a Defendant in Civil Action No. 1:06-CV-0714-ODE ("MIST-1"), captioned as ***Maid of the Mist v. Alcatraz Media***, in the United States

District Court for the Northern District of Georgia.[2] I am seeking to have Judge Orinda D. Evans disqualified from presiding in MIST-1.

700. Due to the significant number of orders and proof of wrongdoing, I am attaching a CD-ROM as Exhibit A that includes important docket items and other documents. Each of the documents on the CD-ROM is numbered A-1, A-2, etc. along with the Docket number or other identifying name. The last pages of this Affidavit provide an index to the CD-ROM.

701. There are a few things that anyone reading this should understand. First, the Plaintiffs, their attorneys, and Judge Evans are all extremely dishonest. I have proven their dishonesty, their lies, and their criminal acts, but Judge Evans ignores it all so she can cover up her wrongdoing. If she acknowledged the wrongdoing by Maid and Maid's Attorneys, she would have to admit to her own gross mistakes and wrongdoing.

702. Second, everything that I have sworn to in 2009 and 2010 declarations is uncontroverted. Maid never filed one single solitary affidavit regarding

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[2] Throughout this affidavit, Citations to the Court Record in Civil Action No. 1:06-CV-0714-ODE are cited as " (MIST-1 Doc.#-Pg.#.)" Citations to the Court Record in Civil Action No. 1:09-CV-02027-WSD are cited as "(MIST-2_Doc.#-Pg.#.)" Citations to the Court Record in Civil Action No. 1:09-CV-01453-WSD are cited as (Deposition Action Doc.#-Pg.#.)" "Dec#" is used to refer to the numbered declarations of William M. Windsor. All referenced docket numbers are incorporated herein as if attached hereto.

facts, so the only evidence before this Court is my sworn testimony under penalty of perjury before a notary based upon my personal knowledge.

703. Third, Maid and Maid's Attorneys made up this entire lawsuit. I have proven this using the deposition testimony of Maid's managers. The Verified Complaint made 50 statements. Maid's managers' testimony proves that 44 of the 50 are false. The other six paragraphs don't amount to anything.

704. Fourth, there has never been a single piece of evidence or testimony to justify my inclusion in this lawsuit. A review of Doc. 1 will show that Maid accuses me personally of all types of stuff, sworn under oath based upon the "personal knowledge" of Christopher Glynn. But that was all a lie, and Maid's VP, Timothy P. Ruddy, testified in his 30-b-6 deposition that it was false. I never did any of that personally, and I was never an officer, director, shareholder, investor, member, owner, partner, board member, or anything else with Alcatraz. I am merely the father of the 75% owner. So, I never should have been part of this lawsuit, but Judge Evans ignored the facts from Day 1, so four years, $1.5 million in legal fees, and thousands of man hours later, here I am. In the Summary Judgment Order [Doc. 251], Judge Evans did not find me to have committed tortious interference with prospective business relations, the sole cause of action that she found for Maid against Alcatraz. So, I was wrongfully included based upon false sworn pleadings, was not found guilty of anything, but was forced to spend a million and a half dollars in legal fees. The story is so outrageous that

anyone reading this must be thinking, this cannot be true. It is true, and it is uncontroverted.

705. There has been so much bias and wrongdoing from Judge Evans that it is hard to believe. But it must be believed. It is real, pervasive, and totally intentional.

706. One thing I have learned from all of this is the best way to lie. If you are going to lie in a legal matter, lie all the time. Lie a lot. It takes a massive amount of time for the opposing party to prove it all, and then the chances are slim that any judge will ever care.

707. In my previous Affidavit of Bias, I listed 575 counts of bias by Judge Evans. That covered 2006 through 2009. (Pet.App. Volume 1.)

708. The biggest development in 2010 is that I got to see the bias, dishonesty, and evil up-close and personal. I sat 10-feet from Judge Evans on the witness stand for a number of hours, and I observed her in the courtroom for several days. It was absolutely blatantly obvious that Judge Evans was deliberately ignoring the facts and the law to damage me as badly as she could. I saw it in her eyes. I heard it in her voice. I felt it in her outrageous rulings and words, which included a point-blank threat that I was "really playing with fire here." [Transcript of April 23, 2010 Hearing - P.109:20-21.] If The Supreme Court will have a law clerk read the transcripts of those hearings, they will see. It isn't quite the same as experiencing it live, but I believe the overwhelming bias is adequately

demonstrated in the transcripts to someone with a legal education.

709. It's more than bias. Judge Evans is committing criminal acts for the purpose of damaging me. She ignores the facts and the law not out of mere bias, but out of the desire to do damage to me. This is much worse than bias. She is absolutely an evil woman.

710. I am confident that if someone investigates her dealings in other cases, they will find she has done this routinely over the years. I believe there are people behind bars who have no business being there. The government will have a real mess on their hands if all of this blows up as it should. There may be thousands of people clamoring for justice that was denied.

711. I have been contacted by six parties who have had similar experiences with Judge Evans. They read about my battle on the Internet and called me. Four attorneys refused to help me because they feared for their careers. One litigant has his case on appeal, so he could not risk getting involved. I was also contacted by the mother of a boy who Judge Evans sent to prison, but she similarly feared getting involved. All had similar experiences with Judge Evans. I suspect there are many hundreds of others over her 32 years on the bench.

712. When I said Judge Evans was biased and should be recused in April 2009, I didn't have a clue how significant all of this corruption was. I did at that time say that Judge Evans was biased

against pro se parties. This has now been proven in her own words...again...and again...and again. She kept saying at the hearings in 2010 that I should have had an attorney. I would give anything if I had a video of her saying this. The transcript won't show the venom in her voice and the quickness in her exclamation when I said that "...I don't know what else in the world you could expect of a pro se party to do but to attempt to understand --." She blurted out loud and mean: "Get a lawyer, that's what you need to do." [Transcript of April 23, 2010 Hearing, P.30:21-25] This is absolute proof of bias. Judge Evans wants me and everyone else to have an attorney because attorneys cannot risk going after her as they have to protect their careers.

713. Judge Evans has denied my right to be heard for five years now. I made at least 20 requests for an evidentiary hearing in 2009 and several more in 2010, but Judge Evans denied every motion. Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. There is extensive case law on this issue. Judge Evans granted every request for a hearing by the Plaintiffs. This demonstrates bias.

714. When I did the affidavit in Pet.App. Volume 1, it covered until the first week or so in January, so this affidavit picks up where that left off. On December 22, 2009, Judge Evans issued an illegal injunction against me without notice, and I was denied access to the courts. I was given absolutely no warning that Judge Evans would consider issuing an injunction against me. I asked

for an evidentiary hearing on Maid's motion for an injunction in my Response [MIST-1 Doc. 484, P 20] filed on August 3, 2009 (five months before the December 22, 2009 Injunction Order was issued), and the request was ignored by Judge Evans. Judge Evans ignored every filing from May 22, 2009 until the order of December 22, 2009. Despite at least 20 requests for hearings and at least eight motions for conferences, there was absolutely no communication from Judge Evans at any time to indicate that such an action might be given any consideration whatsoever.

715. After 213 days of inactivity, Judge Evans surprisingly issued an order on December 22, 2009 on all pending motions. None of my motions were given proper attention. Many were simply ignored. Others were erroneously denied. She claimed there was no evidence on key issues when the evidence was overwhelming and uncontroverted. Everything that Judge Evans does in MIST-1 seems designed to damage me and protect her from conviction for criminal offenses and impeachment.

716. Judge Evans illegally foreclosed my access to the court in MIST-1 and other courts, including appellate courts and state courts. Meaningful access to the courts is a Constitutional right that has been denied by Judge Evans in violation of the Constitution, the law of the Eleventh Circuit, the Supreme Court, and every other circuit. This violation has continued throughout 2010.

717. **BIAS #576** -- On December 29, 2009, I wrote a letter to Judge Evans about the December

22, 2009 filing injunction. I told her that I needed to sue the State because I have paid the State annually to be a licensed ticket broker to have the legal protections of O.C.G.A. 43-4B, but her orders in Civil Action 1:06-CV-0714-ODE denied those legal protections. Judge Evans simply sent a threatening letter in response, but never answered the question. As a result, I have been afraid to file. This demonstrates bias.

718. **BIAS #577** -- On January 5, 2010, Judge Evans signed an order stating that "...Defendant Windsor...ha[s] been permanently enjoined from filing any further motions, pleadings, or papers in this closed case by the Court's order of December 22, 2009...." She went on to say that "the Court will permit the Clerk of Court to file Windsor's pro se Notice of Appeal so as not to prejudice Windsor's right to appeal the Court's December 22 order." [Doc.724.] This emphasized that Windsor was denied all access to the court, but no such restrictions were placed on the Plaintiffs. This demonstrates bias. The Notice of Appeal was sent to the Clerk by Judge Evans, and it was filed. [MIST-1_Doc.726.] This put the December 22, 2009 ORDER on appeal, which was everything pending in this "closed case."

719. **BIAS #578** -- On January 6, 2010, the Plaintiffs filed a motion for sanctions. [MIST-1_Doc.728.] That Judge Evans allowed the motion for sanctions demonstrates bias because the district court had lost jurisdiction due to the appeal. Maid's "Motion for Attorneys' Fees and Expenses of Litigation was filed pursuant to 28 U.S.C. § 1927,

the Court's Inherent Powers, and O.C.G.A. § 13-6-11" ("1927 MOTION") 15 days after Judge Evans dismissed 39 of Maid's motions (19 motions and 20 motions for attorneys' fees in responses to my motions), 36 of my motions (plus 26 additional motions for hearings and conferences). Judge Evans denied and dismissed requests for attorneys' fees on all of these motions. Allowing this motion to be pursued proves bias – totally separate rules for Windsor and the Plaintiffs.

720. **BIAS #579** -- There were no proceedings pending before Judge Evans when the Plaintiffs filed their motion for sanctions. Judge Evans ended all proceedings on December 22, 2009, but 15 days later, the Plaintiffs filed the improper motion. Judge Evans had previously denied my motions with the claim that the case was closed, yet she then allowed the Plaintiffs' motions to be filed, considered, and "decided." (MIST-1 Doc.723,P.3.) This proves bias.

721. **BIAS #580** -- The Eleventh Circuit has agreed with other circuits that a motion for "sanctions" must occur prior to judicial rejection of the offending motion(s). Judge Evans and the Eleventh Circuit say that motions for sanctions are not allowed when filed post-judgment or after motions have been denied. Judge Evans denied attorneys' fees on May 22, 2009. (MIST-1 Doc.390 -- May 22, 2009 Order, P.17-18.) Judge Evans dismissed Plaintiffs' motions and requests for attorneys' fees on December 22, 2009. (MIST-1 Doc.723 -- December 22, 2009 Order, P.3, 19, 20.) Judge Evans rejected my motions and Plaintiffs' motions on December 22, 2009 and did not award

any of the requested attorneys' fees. Then Judge Evans allowed the Plaintiffs to file a motion 15 days later seeking attorneys' fees yet again. And then on April 8, 2010, she awarded attorneys' fees on motions from May 22, 2009 into 2010. Totally improper! Plaintiffs did not file a motion for reconsideration of either the May 22, 2009 Order or the December 22, 2009 Order, and Plaintiffs did not appeal. Case law says the Plaintiffs thus lost the ability to seek attorneys' fees. But Judge Evans allowed it all. This proves bias.

722. **BIAS #581** -- My legal options for responding to the 1927 Motion were severely limited by Judge Evans' order of December 22, 2009. I had no right at all to respond. It was a violation of my Constitutional rights to have to respond to such a motion as a result. I should have been filing motions. I was also blocked by Judge Evans' order of December 22, 2009 from getting the District Court Clerk to issue subpoenas for depositions and production of documents. Judge Evans foreclosed my access to the courts. The Eleventh Circuit has ruled that this cannot be allowed. (***Procup v. Strickland***, 792 F.2d 1069, 1074 (11th Cir. 1986) (en banc).) This clearly proves bias and a lack of impartiality.

723. **BIAS #582** -- I wrote and expressed my objections, but Judge Evans ignored them.

724. **BIAS #583** -- In a motion, I said Judge Evans is supposed to make a ruling based upon legal evidence and to clearly state her factual and legal findings in her order. I expressed that I must have a

fair opportunity to challenge the evidence presented and to present evidence in defense, including the right to cross examine witnesses and require proper authentication and form for documentary evidence at a formal evidentiary hearing. I had provided uncontroverted proof in the record of thousands of instances of false testimony, false pleadings, and tampering with evidence by Maid and their attorneys. I stated that I must be able to cross examine these witnesses. I stated that I needed to file a motion to exclude hearsay evidence from affidavits filed with the Court in MIST-1, but I was enjoined from doing so. I cited various cases and the standards of the FRE, to show that significant portions of affidavits should be excluded from consideration as evidence by the Court in MIST-1 because of hearsay. Judge Evans ignored all of this.

725. **BIAS #584** -- I advised Judge Evans that much of the testimony required and evidence needed by me was from people who will not provide an affidavit. I moved for and demanded discovery, but Judge Evans has never granted me any discovery. I needed to be able to subpoena attorneys who have refused to provide affidavits out of fear of reprisals from Judge Evans and other federal judges in Atlanta. I also needed to be able to subpoena others to give testimony. I needed to be able to question those who provided affidavits for the 1927 motion as it was impossible to address the myriad issues in any other manner. Judge Evans denied all of this.

726. **BIAS #585** -- I stated that Judge Evans has no business sitting in judgment of me in MIST-1

while she has been a party to this action, filing motions and briefs. Judge Evans filed a motion in MIST-1 (in which she was presiding), and she has filed briefs. Judge Evans' orders have been for the purpose of punishing an adversary. Judge Evans should be disqualified. She refused.

727. **BIAS #586** -- Judge Evans violated the Local Rules by failing to act as required by N.D.Ga. L.R. 83.1C to investigate charges of professional misconduct by Maid's attorneys. This also violates the Code of Judicial Conduct. The Motion for Professional Misconduct also contained charges against Judge Evans, and she had no right to deny the motion as she was sitting in judgment of herself.

728. **BIAS #587** -- I objected to the 1927 Motion as Judge Evans never gave any notice to me of any specific conduct that she considered to be potentially sanctionable. Judge Evans could have simply stricken any pleadings. I received no warnings whatsoever that I faced sanctions. I was not given early notice of these claims by Maid as required by case law that I cited. Judge Evans ignored this.

729. **BIAS #588** -- I received an "order" from Judge Evans on January 15, 2010 that said "the Court will permit Windsor to file a response to Plaintiffs' motion, if he so chooses." I did not have adequate time to prepare a response by the January 27 deadline set by Judge Evans. [MIST-1 Doc.731.] This demonstrates bias, because she limited what I could do, but allowed the Plaintiffs to do whatever they wanted.

730. **BIAS #589** -- In determining how to best use my limited time, it seemed the best thing to do was to concentrate on filing an affidavit that explains what has happened and why. I advised Judge Evans that I would carefully research the case law on issues presented by the Plaintiffs, and I would have a memorandum of law prepared to present to the court at the hearing on this motion. Due to my pro se status, it takes me a long time to research every issue, so I also asked that I be given the opportunity to prepare an additional memorandum of law following the hearing, as I would be unable "on the fly" in the courtroom to quote law and cases the way attorneys may be able to do. Judge Evans ignored this. This demonstrates bias.

731. **BIAS #590** -- On January 27, 2010, I filed a "preliminary response and objections" to Maid's motion for post-judgment attorneys' fees. [MIST-1 Doc.735.] Judge Evans completely ignored everything that I said and requested in my Response. This demonstrates bias.

732. **BIAS #591** -- I requested that I be given the opportunity to prepare a post-hearing brief, as I would be unable "on the fly" in the courtroom to quote law and cases the way attorneys may be able to do. Judge Evans ignored this and did not allow me to do so.

733. **BIAS #592** -- On February 19, 2010, the Plaintiffs filed a motion for order to show cause for contempt. [MIST-1_Doc.739.] That Judge Evans allowed the motion for sanctions demonstrates bias

because the district court had lost jurisdiction due to the appeal as Judge Evans stated in her own orders previously in this same lawsuit.

734. **BIAS #593** -- On March 8, 2010, I sent a letter to Judge Evans stating that I had received motions but had ignored them as I could not file anything due to the injunction. The letter was ignored. This demonstrates bias.

735. **BIAS #594** -- In my March 8 letter, I said: "One of the unconstitutional and illegal aspects of your order of December 22, 2009 is that you have denied important rights. The latest motion by the Plaintiffs violates Rule 11. I am required to provide a safe haven by serving a motion and giving 21 days' notice before filing with the court. I am blocked from doing either." The letter was ignored. This demonstrates bias.

736. **BIAS #595** -- In my March 8 letter, I said: "There are various other motions that I need to file in order to protect myself, but I can do nothing." The letter was ignored. This demonstrates bias.

737. **BIAS #596** -- In my March 8 letter, I said: "Please allow me to serve notice that I need discovery to respond to the latest motions and filings by the Plaintiffs." The letter was ignored. This demonstrates bias.

738. **BIAS #597** -- In my March 8 letter, I said: I need authorization for the Court Clerk to issue subpoenas for depositions." The letter was ignored. This demonstrates bias.

739. **BIAS #598** -- In my March 8 letter, I said: "Please allow me to serve notice that I request a jury trial if contempt or sanctions of any type are considered against me." The letter was ignored. This demonstrates bias.

740. **BIAS #599** -- In my March 8 letter, I said: "Please allow me to serve notice that I need to again ask for you to recuse yourself in this matter." The letter was ignored. This demonstrates bias.

741. **BIAS #600** -- In my March 8 letter, I said: "The Plaintiffs latest motions have put you in the position of rendering decisions on matters that affect yourself. For example, the Plaintiffs are claiming that your December 22, 2009 Order should block me from filing an independent action to set aside your December 22, 2009 Order pursuant to Rule 60(d). This would have you ruling that I cannot file a legal action against you. I believe this violates several Canons of the Code of Judicial Conduct, and I understand it to be one of the most basic requirements of a judge." The letter was ignored. This demonstrates bias.

742. **BIAS #601** -- In my March 8 letter, I explained why the Plaintiffs motion on contempt violated FRCP Rule 11. "One or two minutes of "inquiry reasonable under the circumstances" explains what "res judicata" means. Judge Evans refused to allow me to file anything. This proves bias.

743. **BIAS #602** -- On March 9, 2010, Judge Evans issued an "ORDER scheduling a hearing on the 728 MOTION for Attorney Fees to be held on 4/8/2010 in Courtroom 1908 at 1:30 p.m. before Judge Evans." [MIST-1_Doc.742.] My issues were completely ignored. This demonstrates bias.

744. **BIAS #603** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans claimed that she had jurisdiction to hear, consider, and determine the outcome of Plaintiffs' motion. She claimed the Court possesses "both the inherent power and the constitutional obligation to protect [its] jurisdiction from conduct which impairs [its] ability to carry out Article III functions." I believe this isn't true. The injunction was improper for a host of reasons, not the least of which is that an injunction is not to be issued unless there is irreparable harm. There was no irreparable harm in this case. And the filings complained of were in Washington, DC and the Court of Appeals – not Judge Evans' jurisdiction. This demonstrates bias. Judge Evans routinely invents her own laws to serve her corrupt purposes.

745. **BIAS #604** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans addressed the recusal question sua sponte. Judge Evans claimed that "no objective, disinterested lay observer fully informed of the facts and procedural history of this closed case would entertain a significant doubt about the impartiality of the undersigned." Judge Evans lied through her teeth, again proving her bias. Any objective, disinterested lay observer fully informed of the facts and procedural history of this closed case would ABSOLUTELY entertain a significant doubt

about the impartiality of Judge Evans. She needed to keep control of the case because an honest judge would identify all of her criminal acts.

746. **BIAS #605** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans stated that "to determine **whether the requisite bad faith existed on the part of Windsor**, **whether and to what extent to assess post-judgment fees and expenses against Defendants**, and **the financial circumstances of the Defendants** *should* the Court assess such fees and expenses against them, the Court must hold a hearing before disposing of Plaintiffs' motion." Judge Evans lied. This is what the law required, but Judge Evans allowed none of this to be addressed. This proves bias.

747. **BIAS #606** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans also said "The Court advises the parties that the sanctions hearing will concern only those matters materially related to the instant motion - including, most pertinently, whether Windsor's actions evidenced the requisite bad faith for an award of post-judgment fees and expenses, the reasonableness of the fees sought by Plaintiffs, and Defendants' financial circumstances and ability to pay an award of fees and expenses to Plaintiffs, if any. This is biased. Judge Evans blocked my ability to address the fraud on the court that is THE ISSUE. She had to deny me the ability to present evidence because it would have proven the fraud and her obstruction of justice. Then at the hearing, she denied me the opportunity to address these issues that she specified to be addressed in MIST-1 Doc. 742. This proves bias. It actually

proves far more than bias; this proves complete abuse of the judicial process for the purpose of damaging me. By eliminating my ability to present evidence as to why there was no bad faith, Judge Evans automatically imposed legal fees without the prerequisite bad faith mandated by law.

748. **BIAS #607** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans said "Because the Court already denied Plaintiffs attorneys' fees and expenses based on Windsor's conduct in filing these post-judgment motions, the Court will not revisit that issue. Instead, the Court will only consider whether to grant Plaintiffs attorneys' fees and expenses incurred as a result of Windsor's conduct in this case after May 22, 2009." This is duplicitous and demonstrates bias. On the one hand, she says she can't consider attorneys' fees for motions where she denied them. Then she ignored the fact that she denied attorneys' fees on all of the motions after May 22, 2009. This is an excellent example of how she says one thing and does another. This is also an excellent example of how she avoids the law to do what she wants to do.

749. **BIAS #608** -- On March 9, 2010 [MIST-1_Doc.742], Judge Evans ordered the Plaintiffs to file a brief regarding motion for attorneys' fees by Friday, March 26, 2010, and Defendants were instructed to file any response to the brief by Monday, April 5, 2010. Judge Evans failed to address the various issues that I raised in my response to Plaintiffs' motion. She never addressed my requests for relief and requests to file additional motions in this regard. This demonstrates bias.

Judges have a legal obligation to address the issues presented. But Judge Evans used her illegal filing restrictions as a means to simply ignore everything that I presented that was troubling to her corrupt goals.

750. **BIAS #609** -- On March 10, 2010, Judge Evans issued an "ORDER granting the 739 and 741 Motions for an Order for Alcatraz Media, LLC, Alcatraz Media, Inc., Ryan Windsor, and me to show cause why we should not be held in contempt of the order dated December 22, 2009. Judge Evans stated this was because of my filing of (1) several petitions for writs of mandamus in the United States Court of Appeals for the Eleventh Circuit and (2) a new civil action in the United States District Court for the District of Columbia [MIST-1_Doc. 739, ¶¶ 50-52]. Judge Evans stated: "The December 22 order prohibited Windsor and 'any parties acting in concert with him or at his behest' from filing any further motions, pleadings, or other papers in the instant lawsuit [MIST-1_Doc. 723 at 19]. Nonetheless, the corporate defendants and Windsor filed petitions for writs of mandamus on December 30, 2009 in this case." This absolutely false. The Petitions for Writ of Mandamus clearly show that they were filed by me and me alone. [Appeal No. 09-16448-A, 09-16493-A, and 09-16494-A.] The other Defendants ceased to be involved in the case in December 2008. Judge Evans had no legal right to object to any of these filings. This continued lying and false positioning by Judge Evans demonstrates bias.

751. **BIAS #610** -- On March 10, 2010, Judge Evans also said: "The December 22 order also prohibited Windsor, and Windsor alone, from filing 'in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case,' which 'would be barred by the doctrine of res judicata' and 'would serve no purpose except to harass Plaintiffs' [MIST-1_ Doc. 723 at 19]. Windsor subsequently filed the suit in the United States District Court for the District of Columbia and, even though it was dismissed, still continues his efforts to prosecute that case. To the extent that Plaintiffs move the Court to hold any individuals or corporations other than Windsor in contempt of the December 22 order based on this filing by Windsor, their motions are DENIED." This is very important because Judge Evans ordered this and then ignored the order as if it didn't exist, something that she has done throughout this matter only to the detriment of Windsor. Judge Evans allowed the Plaintiffs to try to hold Alcatraz and Ryan in contempt for the DC Action. Then Judge Evans claimed she never intended to enjoin Windsor from filing appeals. This is all detailed below. This demonstrates bias.

752. **BIAS #611** -- On March 10, 2010 [MIST-1_Doc.744], Judge Evans issued an Order to Show Cause. "Although a district court has a certain amount of discretion in fashioning civil contempt sanctions and the procedure by which those sanctions are imposed, the court must stay within the bounds of due process." ***Mercer v. Mitchell***, 908 F .2d 763, 766 (11th Cir. 1990). Specifically, [w]hen the purportedly contumacious conduct occurs outside the

presence of the court, due process requires, with very few exceptions, that the defendant (1) be informed, through a show-cause order, of his purportedly contumacious conduct, and (2) be given a hearing at which he can be represented by counsel, **call witnesses**, and testify in order to show cause why he should not be held in contempt. Id. at 766-67 (citations and footnotes omitted).' The Court therefore ORDERS that a hearing before the undersigned on Plaintiffs' contempt motions be set for 2:00 p.m. on Friday, April 16, 2010. At the hearing, the above-indicated parties will be required to show cause why an order should not be entered holding them in contempt of the Court's December 22 order." [**emphasis added**.] Judge Evans stated that I could call witnesses, but I was denied subpoenas and denied the ability to call witnesses at the hearing Judge Evans attempted to classify the contempt as "civil" despite the fact that Plaintiffs' motion sought criminal sanctions. I repeatedly demanded due process allowed relative to criminal sanctions, and Judge Evans denied claiming this was civil. This was false and shows bias. See MIST-1 Doc. 794 where she awarded criminal sanctions.

753. **BIAS #612** -- On March 10, 2010 [MIST-1_Doc.744], in the Order to Show Cause, there were four parties accused of contempt, but she allowed only one response even though the positions of the parties were all distinctly different. I objected. She ignored me. This demonstrates bias and is a denial of due process.

754. **BIAS #613** -- On March 10, 2010 [MIST-1_Doc.744], Judge Evans threatened the

Defendants with "time in jail." The contempt claim was totally bogus, and she used it to threaten jail. She then ordered criminal sanctions without providing required due process protections. This demonstrates bias.

755. **BIAS #614** -- On March 22, 2010, I sent a letter and motions "for consideration for filing" to Judge Evans by courier because I was enjoined from filing anything. "I need some clarification, and I am asking your approval for the enclosed motions to be filed." The letter was ignored. I was not allowed to file what I needed to file. This proves bias.

756. **BIAS #615** -- Judge Evans claimed in orders that I applied to represent Alcatraz in MIST-1. This is totally false. The record proves this is false. This demonstrates bias.

757. **BIAS #616** -- My March 22 letter also said this: "As the SHOW CAUSE ORDER is threatening me with criminal penalties, I request a jury trial. A DEMAND FOR JURY TRIAL is enclosed. By law, the Court must request that the contempt be prosecuted by an attorney for the government. Has this been done? Who will be the prosecuting attorney? I would like to speak with this person." I cited cases. Judge Evans CLAIMED it was civil contempt, not criminal, but she lied. Case law proves that the sanctions she ordered are classified as criminal. This demonstrates bias.

758. **BIAS #617** -- My letter of March 22 also said: "I ask that you recuse yourself sua sponte to make it easy. I enclose a Motion to Disqualify." She

refused to recuse herself again. This demonstrates bias.

759. **BIAS #618** -- My letter of March 22 also said: "I have prepared a motion objecting to the SHOW CAUSE ORDER for failing to state the essential facts and other violations. This MOTION TO VACATE ORDER is enclosed with a MOTION FOR LEAVE TO EXCEED PAGE LIMITATIONS. According to the cases that I have reviewed, the SHOW CAUSE ORDER must state specifically what it is that we allegedly did wrong, and it does not do so. But there are many additional problems with the order. The terms of FRCP Rule 65(d) 'are mandatory and must be observed in every instance.'" I cited many cases. Judge Evans demonstrated bias by ignoring this.

760. **BIAS #619** -- My March 22 letter also said this: "Alcatraz and Ryan will undoubtedly want to file a motion to dismiss. Alcatraz, Ryan, and Michelle Thornton had no knowledge or notice of the MEGA ORDER. ... Enclosed are affidavits from Ryan Windsor, Michelle Thornton, and me. It is indeed well settled that a person cannot be held in contempt of an order if he does not have knowledge of the order. (FRCP Rule 65(d); ***In re Lennon***., 17 S. Ct. 658, 166 U.S. 548 (U.S. 04/19/1897); ***Vuitton et Fils S.A. v. Carousel Handbags***, 592 F.2d 126 (2d Cir. 1979); and hundreds of others. Since you now have proof that Alcatraz and Ryan had no knowledge of the MEGA ORDER and injunction, it seems appropriate that you dismiss them." Judge Evans ignored this and even refused to file them. This demonstrates bias. The Plaintiffs could file anything

they wanted, and I was not allowed to file anything. Judge Evans merely ignored my proposed motions and hid them from the appellate courts.

761. **BIAS #620** -- My March 22 letter also said: "I need to file a motion for continuance of the trial/hearing and the response for a variety of reasons, primarily to allow a reasonable time for the preparation of the defense as required by law. The proposed MOTION FOR CONTINUANCE AND STAY is enclosed. As to discovery, I must ask the Court to authorize the Clerk of the Court to issue subpoenas for the depositions that I will need. A proposed MOTION FOR SUBPOENAS is enclosed. I need to file a Rule 11 Motion against Plaintiffs' Attorneys. The enclosed letter to the Plaintiffs and their attorneys will serve as the 21 days' notice. I would like to file the Rule 11 Motion as part of my defense on or shortly after April 13, 2010 (to allow 21 days from receipt of this letter). The Plaintiffs' motion on "contempt," is a truly frivolous and improper motion. Of all of the legal issues that I have researched, this one is as black-and-white as it gets in showing that this motion is bogus." Judge Evans ignored all of this. This demonstrates bias.

762. **BIAS #621** -- My March 22 letter also said: "Rule 3 of the Federal Rules of Criminal Procedure requires that the complaint be a written statement of the essential facts constituting the offense charged. It must be made under oath before a magistrate judge or, if none is reasonably available, before a state or local judicial officer. I need this. I have not been served with a Summons as per Rule 4 of the Federal Rules of Criminal Procedure. Will I

be? When will the Preliminary Hearing be held as required by Rule 5.1 of the Federal Rules of Criminal Procedure? I request a Pretrial Conference as per Rule 17.1 of the Federal Rules of Criminal Procedure." Judge Evans ignored all of this. This demonstrates bias, especially when she ended up awarding criminal sanctions.

763. **BIAS #622** -- My March 22 letter also said: "I must again object to the injunction order. I was denied the opportunity to be heard. The MEGA ORDER (December 22, 2009 Injunction Order) clearly violates the laws of the Eleventh Circuit and the Supreme Court. I was entitled to notice and an opportunity to be heard before the court imposed the injunctive order. There should be a hearing on the propriety of the injunction before anything else takes place. I will submit a motion for your consideration in this regard that will be filled with citations to case law. I believe it will be pursuant to FRCP Rule 60(b)(4). In addition, this Court lacks jurisdiction for the injunction issued. These issues are addressed in the MOTION TO VACATE ORDER." I cited many cases. Judge Evans ignored all of this. This demonstrates bias.

764. **BIAS #623** -- The Motion for Order to Show Cause is filled with false statements. [MIST-1_Doc.739.] I identified this for Judge Evans, and she ignored it. This demonstrates bias. She allowed the Plaintiffs and their attorneys to lie thousands of times. She allowed them to respond to motions and claim a variety of facts that were not true and never enforced the Rules that require that such claims be supported by affidavits.

765. **BIAS #624** -- On March 23, 2010 [MIST-1 Doc.745], Judge Evans issued an Order refusing to allow documents and motions submitted by me on March 22 to be filed. These documents included "Demand for Jury Trial." This demonstrates bias. There was nothing even remotely frivolous in these motions. Judge Evans used her injunction for the sole purpose of blocking my access to the court and spinning the proceedings the way she wanted them, which was totally against me.

766. **BIAS #625** -- On March 23, 2010 [MIST-1_Doc.745], Judge Evans issued an Order refusing to allow the filing of a "Motion to Vacate Order." This proves bias.

767. **BIAS #626** -- On March 23, 2010 [MIST-1_Doc.745], Judge Evans issued an Order refusing to allow the filing of a "Motion for Leave to Exceed Page Limitation." This proves bias. Every request to exceed page limitations ever filed by the Plaintiffs was granted and quickly. None of mine were ever granted, and they were usually simply ignored.

768. **BIAS #627** -- On March 23, 2010 [MIST-1_Doc.745], Judge Evans issued an Order refusing to allow the filing of a "Motion for Continuance and Stay" with an attachment. This proves bias.

769. **BIAS #628** -- On March 23, 2010 [MIST-1_Doc.745], Judge Evans issued an Order

refusing to allow the filing of a "Motion to Direct Clerk of the Court to Issue Subpoenas." The Plaintiffs attorney had the ability to issue subpoenas for witnesses. Judge Evans refused to allow me to subpoena witnesses. When I raised this at the hearing, she claimed I had made no such request. That was a lie. This proves bias.

770. **BIAS #629** -- On March 23, 2010 [MIST-1_Doc.745], Judge Evans issued an Order refusing to allow the filing of a "Motion to Disqualify Judge Orinda D. Evans" with several attachments. A judge has an absolute obligation to consider a motion to recuse at any time. Judge Evans used her injunction for the sole purpose of blocking my access to the court and spinning the proceedings the way she wanted them, which was totally against me. This proves bias.

771. **BIAS #630** -- On April 7, 2010, I sent a letter to Judge Evans. There had been no response to the March 10 and March 22 letters from me. Judge Evans did not respond. This demonstrates bias.

772. **BIAS #631** -- On April 7, 2010, I sent another letter to Judge Evans with two motions asking her to "consider" filing them. This included a Notice of Appeal. I did not have the legal right to file the Notice of Appeal with the District Court Clerk. I would have violated the DECEMBER 22, 2009 INJUNCTION ORDER and would be in contempt of court. I wrote to her again on March 22, 2010 [MIST-1_Docket 745] seeking permission to file various documents. I did not receive a response to

my letter of March 22, 2010 except for a new order issued on March 23, 2010 that states: "Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or papers in this closed case (...notwithstanding ... the Court expressly permitted Windsor to file one response ... to Plaintiffs' pending ... contempt motions." Judge Evans' orders of December 22, 2010, March 10, 2010, and March 23, 2010 prohibited me under threat of going to jail from filing anything further in her Court. Judge Evans did not respond, and I was not allowed to file a response to the Plaintiffs' motion for attorneys' fees. This is a massive violation of my legal rights. The Plaintiffs sought several hundred thousand dollars in legal fees from me, and I was ordered not to respond. This proves bias.

773. **BIAS #632** -- On April 8, 2010, Judge Evans held the second so-called "evidentiary hearing" in the five year history of MIST-1 in response to a motion by the Plaintiffs for sanctions for attorneys' fees. It was clear to me that it was all a charade; Judge Evans was just there to punish me. The facts and law were meaningless to her. This proves bias. (MIST-1_Doc.768.)

774. **BIAS #633** -- Courts are supposed to make rulings based upon legal evidence and to clearly state factual and legal findings in orders. I should have had a fair opportunity to challenge the evidence presented and to present evidence in defense, including the right to cross examine witnesses and require proper authentication and

form for documentary evidence. I was denied these rights. This proves bias.

775. **BIAS #634** -- Judge Evans' hearing on April 8, 2010 did not comply with due process at all, and she violated her own order of March 9, 2010. The hearing began with a refusal by Judge Evans to allow me to raise objections. This establishes bias. [MIST-1_Doc.768]. P.16:1-22:

1 MR. WINDSOR: YOUR HONOR, MAY I OBJECT? I NOTIFIED
2 YOU THAT I HAD A NUMBER OF OBJECTIONS AND STATEMENTS.
3 THE COURT: YEAH, BUT WE'RE NOT READY FOR YOUR
4 OBJECTIONS, THOUGH. YOU JUST NEED TO WAIT.
5 MR. BROWN: ONE POINT OF CLARIFICATION. THE
6 ACTUAL DATE OF THE DECISION IN NEW YORK STATE WAS MARCH 7TH,
7 2009.
8 THE COURT: ALL RIGHT.
9 MR. WINDSOR: SO, YOUR HONOR, I'M NOT ALLOWED TO MAKE
10 OPENING STATEMENT?
11 THE COURT: YES, YOU WILL BE. WHAT WE'RE GOING TO DO
12 IS WAIT FOR YOUR SIDE OF THE CASE, AND YOU'LL BE ABLE TO MAKE
13 AN OPENING STATEMENT, AND I THINK WHAT WE'LL DO IS PUT YOU
14 UNDER OATH AND YOU CAN COMBINE YOUR OPENING STATEMENT AND

15 TESTIMONY.
16 WE'RE READY FOR THE FIRST WITNESS.
17 MR. WINDSOR: YOUR HONOR, I WANT TO PUT ON THE RECORD
18 THAT I'D LIKE TO OBJECT TO THE FORMAT IN WHICH THIS IS BEING
19 DONE BECAUSE I HAVE A SERIES OF OBJECTIONS THAT SHOULD LEAD US
20 TO NOT CALLING ANY WITNESSES TODAY.
21 THE COURT: WE'LL RESERVE YOUR OBJECTIONS UNTIL
22 LATER.

776. **BIAS #635** -- Plaintiffs were allowed an opening statement, but I was not. [MIST-1_Doc.768] P.16:9-15, P.40:2-6.

P.16:

9 MR. WINDSOR: SO, YOUR HONOR, I'M NOT ALLOWED TO MAKE
10 OPENING STATEMENT?
11 THE COURT: YES, YOU WILL BE. WHAT WE'RE GOING TO DO
12 IS WAIT FOR YOUR SIDE OF THE CASE, AND YOU'LL BE ABLE TO MAKE
13 AN OPENING STATEMENT, AND I THINK WHAT WE'LL DO IS PUT YOU
14 UNDER OATH AND YOU CAN COMBINE YOUR OPENING STATEMENT AND
15 TESTIMONY.

P.40:

2 MR. WINDSOR: HE GAVE AN OPENING STATEMENT, YOUR
3 HONOR, AND I WAS NOT ALLOWED TO MAKE COMMENTS. I THINK I HAVE
4 THE OPPORTUNITY TO SET THE RECORD STRAIGHT.
5 THE COURT: WE'RE GOING TO DO THAT ON YOUR SIDE OF
6 THE CASE.

777. **BIAS #636** -- I was not allowed to ask questions. P. 33:11-25, P. 34:1-20:

P.33:

11 Q. WELL, HAVE YOU BEEN INVOLVED IN CASES WHERE THERE'S BEEN
12 DISHONESTY, SIR?
13 THE COURT: THAT'S NOT A PROPER QUESTION.
14 MR. WINDSOR: YOUR HONOR, WHAT WE'RE TALKING ABOUT
15 HERE THIS WHOLE CASE IS ABOUT --
16 THE COURT: DON'T ARGUE WITH ME. I'M GOING TO GIVE
17 YOU TWO MINUTES TO FINISH UP WITH THIS WITNESS.
18 MR. WINDSOR: I HAVE GOT 92 QUESTIONS LEFT.
19 THE COURT: NO, YOU WON'T BE ASKING 92 QUESTIONS.
20 YOU'VE GOT TWO MINUTES TO FINISH UP. ALL WE'RE COVERING WITH

21 THIS WITNESS OR WE WERE SUPPOSED TO BE COVERING WAS THE
22 REASONABLENESS OF THE FEES AND EXPENSES.
23 BY MR. WINDSOR:
24 Q. SIR, IF THE PLEADINGS OF THE PLAINTIFFS WERE ALL FALSE,
25 HOW REASONABLE WOULD THOSE FEES BE THAT WERE INCURRED?

P.34:

1 THE COURT: THAT'S NOT A PROPER QUESTION. HAVE YOU
2 GOT ANYTHING ELSE?
3 MR. WINDSOR: YOUR HONOR, I DON'T UNDERSTAND WHY
4 THAT'S NOT A PROPER QUESTION. THE WHOLE ISSUE HERE IS THAT
5 THESE PEOPLE LIED ABOUT EVERYTHING.
6 THE COURT: THE QUESTION BEFORE THE COURT IS
7 THE REASONABLENESS OF THE FEES AND EXPENSES THAT HAVE BEEN
8 CLAIMED AND THAT'S IT. YOU'RE REALLY TRYING TO GO OUTSIDE
9 THAT.
10 MR. WINDSOR: YOUR HONOR, THE ONLY WAY I THINK IS
11 LOGICALLY. NOW LOGICALLY IF THE QUESTION HERE IS WHETHER THE
12 MONEY THAT WAS SPENT WAS SPENT INAPPROPRIATELY BECAUSE OF MY

13 ACTIONS, THEN WE HAVE TO LOOK AT WHAT CAUSED ME TO DO WHAT I
14 DID.
15 THE COURT: NO, WE DON'T. THAT'S THE FLAW IN YOUR
16 LOGIC.
17 MR. WINDSOR: I DON'T UNDERSTAND THAT. COULD YOU
18 EXPLAIN IT TO ME?
19 THE COURT: WE'RE GOING TO NEED TO MOVE ON. YOU HAVE
20 A SEAT, MR. WINDSOR. YOU CAN STEP DOWN, SIR. THANK YOU.

778. **BIAS #637** -- Judge Evans claimed "The question before the Court is the reasonableness of the fees and expenses that have been claimed and that's it. You're really trying to go outside that." This is absolutely false. See March 9, 2010 Order, P.14, 16. [MIST-1 Doc. 742.] Judge Evans denied me the ability to address the basic issue. She found me guilty without giving me the opportunity to file a response or testify in court! See also P.42:4-16, P.43:11-25, P.44:1-8. P.47:18-25:

4 THE COURT: LET ME JUST ASK FOR CLARIFICATION. WHAT
5 IS THAT DOCUMENT?
6 THE WITNESS: THE COMPLAINT IN THIS CASE.
7 THE COURT: IN OUR CASE?
8 THE WITNESS: YES.
9 THE COURT: I DON'T BELIEVE YOUR QUESTION WOULD HELP

10 ILLUMINATE ANY ISSUES ABOUT FEES THAT ARE THE SUBJECT OF
11 TODAY'S HEARINGS. SO LET'S GO ON TO SOMETHING ELSE.
12 MR. WINDSOR: WHAT IT WILL ILLUMINATE, YOUR HONOR, IS
13 THE WHOLE FRAUD THAT THIS THING IS BASED ON.
14 THE COURT: WELL, I DON'T BELIEVE IT DOES. SO LET'S
15 MOVE ON. DO YOU HAVE ANY QUESTIONS ABOUT THE FEES THAT HE
16 WANTS TO COLLECT?
11 Q. DID JUSTICE EGAN INDICATE THE ATLANTA LAWSUIT HAD NOTHING
12 TO DO WITH WHAT WAS GOING ON IN NEW YORK; DID HE REFUSE TO
13 DISCUSS IT?
14 MS. BRIGHT: OBJECTION TO THE LINE OF QUESTIONING.
15 AGAIN IT'S BEYOND THE SCOPE OF THE REASONABLENESS OF PHILLIPS
16 LYTLE'S ATTORNEY'S FEES POST-JUDGMENT.
17 THE COURT: I THINK THAT'S CORRECT. I'LL SUSTAIN
18 THAT OBJECTION.
19 MR. WINDSOR: WELL, HE TURNED IN THE TIME, YOUR
20 HONOR.
21 THE COURT: ALL I CARE ABOUT IS WHAT I HAVE BEFORE ME
22 IN THIS CASE AND WHETHER IT'S REASONABLE.

23 MR. WINDSOR: BUT HE TURNED THE TIME IN IN THIS CASE,
24 YOUR HONOR. SO IT SEEMS TO ME THE FACT THAT THE JUDGE SAID
25 ATLANTA DOESN'T PERTAIN TO THIS IS SIGNIFICANT. THEY SHOULDN'T
1 BE ABLE TO PUT THAT TIME IN.
2 THE COURT: RIGHT. WE CAN FERRET OUT FOR OURSELVES
3 WHETHER THE FEE APPLICATION IN THIS CASE PERTAINS ONLY TO THIS
4 CASE. LET'S MOVE ON.
5 MR. WINDSOR: YOUR HONOR, I'VE GOT 92 QUESTIONS. I
6 ASSUME YOU'RE NOT GOING TO LET ME ASK THEM.
7 THE COURT: I'M GUESSING THAT I'M NOT. TELL ME WHAT
8 SOME OF YOUR QUESTIONS ARE?

18 Q. OVER FOUR YEARS AND IF YOU WANT TO TAKE FROM MAY 22ND ON,
19 THERE WERE A NUMBER OF REQUESTS FOR CONFERENCES AND HEARINGS.
20 DID YOU EVER DISCUSS THE IDEA OF HEY, LET'S JUST AGREE TO ONE
21 AND WE CAN LIMIT THE COST?
22 MS. BRIGHT: OBJECT TO THIS LINE OF QUESTIONING.
23 THE COURT: I'LL SUSTAIN THE OBJECTION. WE NEED TO
24 MOVE ON TO THE NEXT WITNESS, MR. WINDSOR. WE'RE NOT GETTING

25 ANYWHERE WITH THIS. YOU CAN STEP DOWN, SIR.

Judge Evans even denied me the ability to ask questions about the reasonableness of fees.

779. **BIAS #638** -- Judge Evans did not allow me to call witnesses who submitted affidavits. [MIST-1_Doc.768.] P.48:19-25, P.49:1-10.

P.48:

19 THE COURT: MR. WINDSOR, IS IT NECESSARY TO CALL MR.
20 SCHUL TO THE STAND TO ESTABLISH THAT THEY HAVE ACTUALLY PAID
21 THESE BILLS THAT HAVE BEEN SENT TO THEM?
22 MR. WINDSOR: WELL, I WOULD SAY IT'S NECESSARY TO
23 CALL MR. SCHUL TO THE STAND TO DETERMINE WHETHER OR NOT HE HAS
24 ANY HONESTY THAT THIS COURT COULD ASSUME THAT ANYTHING HE SAYS
25 IS TRUE. THAT WOULD BE THE REASON.

P.49:

1 THE COURT: I DON'T WANT TO CALL HIM TO THE STAND FOR
2 THAT PURPOSE.
3 MR. WINDSOR: LET ME SAY THAT HE HAS LIED UNDER

4 OATH. I HAVE DOCUMENTED THOSE LIES WITH PROOF. IN ALL DUE
5 RESPECT, YOU EITHER HAVEN'T READ THEM OR HAVE IGNORED THEM.
6 IT'S DOCUMENTED WITH THE TESTIMONY OF THEIR FELLOW MANAGERS.
7 I'VE DONE THAT ON ALL OF THEM.
8 THE COURT: OKAY. STOP RIGHT THERE. IT SEEMS TO
9 ME -- YOU KNOW, MR. ANDERSON, WHETHER THESE BILLS HAVE BEEN
10 PAID.

780. **BIAS #639** -- Judge Evans ignored my objections and then denied all of my valid objections. [MIST-1_Doc.768.] P.16:1-4; P.75:11-13.

P.16:

1 MR. WINDSOR: YOUR HONOR, MAY I OBJECT? I NOTIFIED
2 YOU THAT I HAD A NUMBER OF OBJECTIONS AND STATEMENTS.
3 THE COURT: YEAH, BUT WE'RE NOT READY FOR YOUR
4 OBJECTIONS, THOUGH. YOU JUST NEED TO WAIT.

P.75:

11 THE COURT: LET ME JUST STOP YOU RIGHT THERE BEFORE
12 WE GO ON TO THAT. I'M GOING TO OVERRULE YOUR OBJECTIONS JUST

13 TO CLEAN UP THE RECORD, AND NOW REGARDING THE SUBPOENAS, I

781. **BIAS #640** -- Judge Evans restricted my testimony time. [MIST-1_Doc.768.] P.89:2-9, P.95:11-17.

P.89:

2 THE COURT: LET ME INTERRUPT YOU HERE. I'M GOING TO
3 GIVE YOU TEN MINUTES TO FINISH YOUR REMARKS, AND I'M NOT GOING
4 TO INTERRUPT YOU. YOU CAN COVER WHATEVER YOU WANT TO, BUT WHAT
5 YOU ARE DOING IS NOW YOU'RE NOT RESPONDING TO MY QUESTIONS AND
6 YOU'RE REALLY GETTING NOWHERE.
7 MR. WINDSOR: I WILL DO MY BEST. I CAN'T FINISH IN
8 TEN MINUTES --
9 THE COURT: YOU WILL FINISH IN TEN MINUTES.

P.95:

11 THE COURT: LOOKS LIKE YOUR TIME IS UP.
12 MR. WINDSOR: I HAVE WITNESSES TO CALL. I HAVE TONS
13 OF DOCUMENTS THAT I HAVE PRODUCED THAT I NEED TO PRESENT, YOUR
14 HONOR, SO I OBJECT TO YOU DEPRIVING ME OF THE ABILITY TO DO

15 THAT. ALSO WE HAVEN'T DISCUSSED THE LAW, AND THE LAW IS --

16 THE COURT: WELL, WE HAVE TO THE EXTENT WE'RE GOING

17 TO. YOU CAN STEP DOWN.

782. **BIAS #641** -- I was denied discovery. I needed to be able to subpoena others to give testimony. I needed to be able to question those who provided affidavits for the Plaintiffs' motion as it is impossible to address the myriad issues in any other manner. Judge Evans also refused to lift the seal on MIST-1_Doc.168 that will prove fraud upon the courts. (See MIST-1_Doc.561.) This proves bias.

783. **BIAS #642** -- Procedural due process requires notice and the opportunity to be heard. I was denied both. [MIST-1_Doc.768.] P.33:11-25, P.34:1-20.

P.33:

11 Q. WELL, HAVE YOU BEEN INVOLVED IN CASES WHERE THERE'S BEEN

12 DISHONESTY, SIR?

13 THE COURT: THAT'S NOT A PROPER QUESTION.

14 MR. WINDSOR: YOUR HONOR, WHAT WE'RE TALKING ABOUT

15 HERE THIS WHOLE CASE IS ABOUT --

16 THE COURT: DON'T ARGUE WITH ME. I'M GOING TO GIVE

17 YOU TWO MINUTES TO FINISH UP WITH THIS WITNESS.

18 MR. WINDSOR: I HAVE GOT 92 QUESTIONS LEFT.

19 THE COURT: NO, YOU WON'T BE ASKING 92 QUESTIONS.

20 YOU'VE GOT TWO MINUTES TO FINISH UP. ALL WE'RE COVERING WITH

21 THIS WITNESS OR WE WERE SUPPOSED TO BE COVERING WAS THE

22 REASONABLENESS OF THE FEES AND EXPENSES.

23 BY MR. WINDSOR:

24 Q. SIR, IF THE PLEADINGS OF THE PLAINTIFFS WERE ALL FALSE,

25 HOW REASONABLE WOULD THOSE FEES BE THAT WERE INCURRED?

P.34:

1 THE COURT: THAT'S NOT A PROPER QUESTION. HAVE YOU

2 GOT ANYTHING ELSE?

3 MR. WINDSOR: YOUR HONOR, I DON'T UNDERSTAND WHY

4 THAT'S NOT A PROPER QUESTION. THE WHOLE ISSUE HERE IS THAT

5 THESE PEOPLE LIED ABOUT EVERYTHING.

6 THE COURT: THE QUESTION BEFORE THE COURT IS

7 THE REASONABLENESS OF THE FEES AND EXPENSES THAT HAVE BEEN

8 CLAIMED AND THAT'S IT. YOU'RE REALLY TRYING TO GO OUTSIDE

9 THAT.

10 MR. WINDSOR: YOUR HONOR, THE ONLY WAY I THINK IS
11 LOGICALLY. NOW LOGICALLY IF THE QUESTION HERE IS WHETHER THE
12 MONEY THAT WAS SPENT WAS SPENT INAPPROPRIATELY BECAUSE OF MY
13 ACTIONS, THEN WE HAVE TO LOOK AT WHAT CAUSED ME TO DO WHAT I
14 DID.
15 THE COURT: NO, WE DON'T. THAT'S THE FLAW IN YOUR
16 LOGIC.
17 MR. WINDSOR: I DON'T UNDERSTAND THAT. COULD YOU
18 EXPLAIN IT TO ME?
19 THE COURT: WE'RE GOING TO NEED TO MOVE ON. YOU HAVE
20 A SEAT, MR. WINDSOR. YOU CAN STEP DOWN, SIR. THANK YOU.

784. **BIAS #643** -- O.C.G.A. 13-6-11 was one of the statutes that the Plaintiffs claimed allowed them to seek sanctions, but it applies to recovery of attorneys' fees for the **Plaintiffs**' claims. (***Lineberger v. Williams***, 195 Ga.App. 186, 188-189 (Ga. Ct. App. 1990).) [**emphasis added**.] All of the issues in MIST-1 in 2009 were issues of mine, a defendant. Judge Evans had previously issued a decision in MIST-1 stating just this. (MIST-1_Doc. 325, P 3, ¶3.) O.C.G.A. § 13-6-11 was frivolously pled. Conduct occurring after the case is filed is simply not regulated by O.C.G.A. § 13-6-11. The case law on O.C.G.A. § 13-6-11 is extremely clear. Judge Evans' failure to stop the Plaintiffs from pursuing O.C.G.A. § 13-6-11 proves bias.

785. **BIAS #644** -- Plaintiffs' motion for sanctions did not provide me with sufficient notice of the complaints against me. The Plaintiffs did not describe the particular acts, tied to dates, times, or events that give reasonable specificity of the conduct complained up. Nowhere in the motion or at the hearing did the Plaintiffs identify anything that was frivolous. Plaintiffs provided no sworn affidavits or sworn testimony as to any misconduct. My motions were not frivolous. Judge Evans ignored this, and this proves bias.

786. **BIAS #645** -- Plaintiffs did not provide Judge Evans or me with the information necessary to discern the amount of Plaintiffs' claimed entitlement from the exhibits submitted by the Plaintiffs in support of their claim. The supporting affidavits failed to adequately connect the allegedly excess work and expenses. The Plaintiffs have been padding the legal fees. Judge Evans ignored this, and this proves bias.

787. **BIAS #646** -- Plaintiffs' attempt to recover attorneys' fees was barred by collateral estoppel. Judge Evans already ruled on Plaintiffs' attorneys' fees in this case. The Plaintiffs executed a final consent and judgment in this Civil Action on December 9, 2008 in which they released me from any further liability for attorneys' fees in this case. (MIST-1_Doc.390.) "Issue Preclusion" also negates any award of attorneys' fees to the Plaintiffs. Collateral estoppel also prevents the reargument of a factual or legal issue that has already been determined by a valid judgment. (Rule 8 of the

FRCP.) Judge Evans ignored this, and this proves bias.

788. **BIAS #647** -- In invoking its inherent powers, the Court must exercise caution and it must comply with the mandates of due process, both in determining that the requisite bad faith exists and in assessing fees. There was absolutely no proof of bad faith presented at the Hearing. Judge Evans allowed sanctions under inherent powers without following established case law of the Eleventh Circuit and the Supreme Court that require bad faith to be proven. This proves bias.

789. **BIAS #648** -- Judge Evans could not expect anything more of a pro se party than what I did in this matter. I never did anything wrong. I never found, and neither the Plaintiffs nor Judge Evans EVER cited, any statutes or valid case law against the claims in my motions. I have researched Eleventh Circuit cases involving pro se parties, and I discovered that sanctions against pro se parties are almost non-existent. Judge Evans ignored this. This proves bias.

790. **BIAS #649** -- The Transcript shows that I asked to present the law to be considered, and Judge Evans refused to allow it. This proves bias. [MIST-1_Doc.768: Transcript of April 8, 2010 Hearing -- P.95:12-17.]

P.95:

12 MR. WINDSOR: I HAVE WITNESSES TO CALL. I HAVE TONS

13 OF DOCUMENTS THAT I HAVE PRODUCED THAT I NEED TO PRESENT, YOUR
14 HONOR, SO I OBJECT TO YOU DEPRIVING ME OF THE ABILITY TO DO
15 THAT. ALSO WE HAVEN'T DISCUSSED THE LAW, AND THE LAW IS --
16 THE COURT: WELL, WE HAVE TO THE EXTENT WE'RE GOING
17 TO. YOU CAN STEP DOWN.

So I was denied the ability to file a response to the order; I was denied the ability to present evidence and call witnesses; and then I was denied the ability to present my extensive legal research to the Court. This is about as un-legal as it gets!

791. **BIAS #650** -- The Plaintiffs' expert witness did not appear to testify. The attorney who did appear did not file an affidavit. [MIST-1_Doc.768: P.5:7-10, P.19:25, P.20:1-16.] Both the affidavit and the testimony should have been stricken, but Judge Evans denied my motion. This proves bias.

792. **BIAS #651** -- Judge Evans had no business sitting in judgment of me in this action while she has been a party to this action, filing motions and briefs. (See Docket 1:09-CV-01543-WSD, a separate action that magically appeared after Judge Evans filed a motion in her own case.) Judge Evans' orders have been for the purpose of punishing an adversary. Judge Evans has demonstrated pervasive bias.

793. **BIAS #652** -- I provided uncontroverted proof in the record of thousands of instances of false testimony, false pleadings, and tampering with evidence by the Plaintiffs and their attorneys. I needed to be able to cross examine those witnesses. I needed to file a motion to exclude hearsay evidence from affidavits filed with the Court, but I was not allowed to do so. Judge Evans was obligated to weigh evidence to evaluate whether I took any actions in bad faith, but Judge Evans denied me the ability to do so at the Hearing. This proves bias.

794. **BIAS #653** -- Judge Evans' Order setting the April 8, 2010 hearing improperly gave essentially no indication what the hearing was about other than to say O.C.G.A. 13-6-11, 28 U.S.C. § 1927, and the Court's Inherent Powers; the term "bad faith;" and reasonableness of fees. I was given only a short period of time to answer questions from Judge Evans before she cut me off and issued her findings of fact without a pause. There was absolutely no evidence of bad faith presented by the Plaintiffs – NONE, and I testified that there was absolutely no bad faith. Blacks Law Dictionary defines bad faith to mean "the opposite of Good Faith," but Judge Evans specifically denied me the right to present evidence of good faith. She then proceeded to give detailed findings of fact about the alleged bad faith, which was all stuff that she conjured up. Judge Evans awarded attorneys' fees on motions where attorneys' fees had been denied. Judge Evans made absolutely no findings about the legitimacy of my motions or the Plaintiffs' motions. This proves bias.

795. **BIAS #654** -- At the April 8 hearing, Judge Evans asked if I could pay $192,377.87, and I said I could not. Judge Evans refused to take any evidence from me about my "ability" to pay, though the Order to Show Cause specified that this was to be covered. [Transcript of April 8, 2010 Hearing -- P.50:5-25; P.51:1-9.]

P.50:

5 THE THIRD ITEM THAT WAS COVERED IN YOUR ORDER WAS THE
6 DEFENDANT'S ABILITY TO PAY.
7 THE COURT: HOW ARE YOU GOING TO ESTABLISH THAT?
8 MR. ANDERSON: I HAVE CERTIFIED COPIES OF THE DEEDS
9 THAT I ACTUALLY HAD ATTACHED TO A PREVIOUS DECLARATION. I WAS
10 GOING TO GIVE THOSE TO MR. WINDSOR, AND THEN SHOW THAT THERE
11 WAS EQUITY IN BOTH THE HOUSES THAT WE'RE TALKING ABOUT.
12 THEN I HAVE SOME INFORMATION ON VARIOUS ACCOUNTS THAT
13 EXIST. I DON'T KNOW THE EXACT BALANCES OF THEM, AND I WAS
14 GOING TO ASK HIM ABOUT THAT TO ESTABLISH HIS ABILITY TO PAY.
15 THE COURT: MR. WINDSOR, YOU HEARD WHAT MR. ANDERSON
16 JUST SAID, AND YOU KNOW, I THINK, ABOUT WHAT THEY'RE TRYING TO
17 COLLECT FOR ATTORNEY'S FEES AND EXPENSES IN THIS CASE. IT

18 LOOKS TO ME LIKE IT WOULD BE A LITTLE MORE THAN 200,000.

19 MR. ANDERSON: IF I MAY, YOUR HONOR, IT WOULD BE

20 $227,093.21 AS OF LAST NIGHT.

21 THE COURT: ALL RIGHT.

22 MR. ANDERSON: IN TERMS OF FEES AND THEN EXPENSES

23 WOULD BE $19,003.10 AS OF LAST NIGHT.

24 THE COURT: ALL RIGHT. NOW, MR. WINDSOR, LET ME ASK

25 YOU THIS QUESTION. IS IT YOUR CONTENTION THAT IF I WERE TO

P.51:

1 AWARD THESE FEES AND EXPENSES THAT YOU WOULD NOT BE ABLE TO

2 PAY?

3 MR. WINDSOR: I DON'T BELIEVE I'LL HAVE THE ABILITY

4 TO PAY.

5 THE COURT: OKAY.

6 MR. WINDSOR: I WOULD LIKE TO PUT ON THE RECORD I

7 OBJECT TO MR. SCHUL NOT BEING ALLOWED TO TESTIFY.

8 THE COURT: I DON'T WANT TO GET TOO BOGGED DOWN ON

9 THIS ISSUE OF ABILITY TO PAY. I MEAN –

Judge Evans said that she didn't want the Plaintiffs to get into it, so there was no testimony at all other

than an affidavit from Plaintiffs' attorney speculating as to the equity that my wife and I might have in real estate (without calculating real estate commissions, factoring in the fact that both properties have been unsuccessfully for sale for over three years, that I have a $500,000 loan from Wachovia that was used for downpayment and improvements), that I have a negative net worth of over $800,000, and that my wife and I averaged income of less than $20,000 for each of the four previous years. This proves bias.

796. **BIAS #655** -- Judge Evans violated O.C.G.A. § 9-11-62 (a) by ordering at the time of the entry of the judgment on April 9, 2010 that a writ of execution should be issued instantly. (MIST-1_Doc.752, P. 4.) Judge Evans was obligated to abide by O.C.G.A. § 9-11-62 because of 28 U.S.C. § 1962, and FRCP Rule 62(f). Thus, Plaintiffs' recordation of the writ of execution was improper and illegal. Judge Evans is responsible for it happening, and this proves bias.

797. **BIAS #656** -- Judge Evans "story" at the hearing was that pro se me should have had an attorney representing me in 2009 because an attorney would have known that when a case is closed, nothing more can be done. I have stated again and again under oath that I was unable to find an attorney who would risk his or her career by taking actions against Judge Evans. I testified that I have found no such information about "closed cases" in my research. I asked Judge Evans to cite just one case or provide some keywords that I could

search, and she refused. [MIST-1_Doc.768 – P.70:8-25, P.71:1-17, P.78:16-25, P.79:1-11.]

P.70:

8 THE COURT: OKAY. SO YOUR POSITION ON THE FINALITY
9 OF JUDGMENTS IS YOU JUST DON'T ACCEPT THE IDEA THAT THERE WAS A
10 FINAL JUDGMENT IN THIS CASE. YOUR IDEA IS THAT AS FAR AS YOU
11 KNOW HAVING DONE YOUR OWN RESEARCH THAT IT'S OKAY TO KEEP ON
12 FILING THINGS IN THIS COURT.
13 MR. WINDSOR: YES, YOUR HONOR, AND, YOU KNOW, I'VE
14 CITED CASES. I FOUND CASES THAT WENT BACK -- I THINK ONE WENT
15 BACK LIKE 50 OR 60 YEARS INVOLVING --
16 THE COURT: WHAT WOULD IT TAKE TO CONVINCE YOU THAT
17 YOU AS A LAYPERSON ARE WRONG ABOUT THAT?
18 MR. WINDSOR: I GUESS MAYBE SOME CASES. BECAUSE THE
19 CASES THAT I FOUND AND HAVE CITED INCLUDING A REALLY GOOD
20 ELEVENTH CIRCUIT CASE WAS A CASE WHERE I THINK IT WAS MAYBE
21 EIGHT OR TEN YEARS LATER THAT THEY CAME BACK, FILED A RULE
22 60(B) MOTION BASED ON NEW EVIDENCE. THE PEOPLE HAD ACTUALLY

23 BEEN PAID SOME HUGE AMOUNT OF MONIES, THREE QUARTERS OF A
24 MILLION DOLLARS OR SOMETHING, AND THE ELEVENTH CIRCUIT REVERSED
25 THE RULING BECAUSE THEY WERE DEFRAUDED AND EVEN LET THEM KEEP

P.71:

1 THE 750 AND I DON'T KNOW WHAT HAPPENED BEYOND THAT.
2 BUT I'VE GOT THAT AND ANY NUMBER OF CASES WHERE A
3 RULE 60 MOTION OR SOME CASES WHERE IT'S THE COURT'S INHERENT
4 POWERS WHICH CONTRARY TO WHAT YOU WERE TELLING ME EARLIER
5 SAYING YOU COULDN'T DO ANYTHING SAYS THAT IF THE COURT IS
6 PRESENTED WITH A COMPELLING REASON, THE MAIN IDEA WE'RE ALL
7 HERE ABOUT IS SUPPOSED TO BE JUSTICE, THAT YOU CAN DO SOMETHING
8 ABOUT IT.
9 AND SO YOU STATED IN YOUR ORDER OF MAY 22ND WHEN YOU
10 DENIED THE RULE 60(B) MOTION, DENIED THE MOTION FOR RECUSAL,
11 DENIED MAYBE ONE OR TWO OTHER THINGS, SANCTIONS OR DISCOVERY.
12 ONE OF THOSE MIGHT HAVE BEEN OVERLOOKED AND DONE LATER, BUT
13 BASICALLY 60(B) AND RECUSAL.
14 YOU STATED IN THE ORDER THAT I DIDN'T PRESENT ANY

15 ARGUMENTS RELATIVE TO ONE OF THE 60(B) CATEGORIES. YOU ALSO
16 STATED THAT YOU CAN'T DO 60(B)(6) IF YOU ALSO DO 60(B)(1), BUT
17 I'VE GOT A TON OF CASES THAT SHOW THAT YOU CAN DO THAT.

P.78:

16 MR. WINDSOR: COULD YOU CITE FOR ME CASES THAT SAY
17 THAT MY EFFORTS HAVE BEEN IMPROPER? BECAUSE I HAVEN'T SEEN
18 ANYTHING AND I DIDN'T SEE ANYTHING IN YOUR ORDERS.
19 THE COURT: THERE ARE A LOT OF CASES DISCUSSING THE
20 FINALITY OF JUDGMENTS, AND ANY LAWYER THAT YOU WERE TO CONSULT
21 WOULD TELL YOU THAT WHAT YOU HAVE BEEN DOING HAS BEEN TOTALLY
22 OFF THE WALL. IT'S SO FAR OFF THE CHART THERE'S NO WAY I CAN
23 ADEQUATELY DESCRIBE IT TO YOU.
24 NO, THERE IS NOT A CASE THAT WOULD HAVE FACTS SIMILAR
25 TO THIS CASE THAT WOULD ADJUDICATE THAT MATTER.

P.79:

1 MR. WINDSOR: COULD YOU DIRECT ME IF THERE IS SOME
2 KEY WORDS I CAN ENTER INTO VERSUSLAW?

3 THE COURT: NO, I'M NOT GOING TO GET INTO THAT WITH
4 YOU. YOU CAN GET A LAWYER, I'M ABSOLUTELY POSITIVE YOU CAN,
5 WHO WILL DISCUSS THE FACTS OF THIS CASE WITH YOU. YOU DON'T
6 HAVE TO MENTION MY NAME; ALTHOUGH, IT WOULDN'T MAKE ANY
7 DIFFERENCE IF YOU'RE NOT GOING TO SUE ME. THEY DON'T CARE
8 ABOUT THAT.
9 IF YOU TALK WITH ANY GOOD LAWYER ABOUT WHAT HAS GONE
10 ON IN THIS CASE, HE OR SHE WILL TELL THAT WHAT YOU HAVE DONE IS
11 JUST TOTALLY OFF THE CHART. THERE IS NO QUESTION ABOUT IT.

798. **BIAS #657** -- Judge Evans made this up about closed cases, so the entire justification for Judge Evans' sanctions is completely bogus. The case law is overwhelming about reopening "closed cases." I have found 9,240 federal court cases that discuss "Rule 60" or "finality of judgments." 8,448 discuss Rule 60, and only 792 do not. (The citations were presented to the Court at the hearing on April 23, 2010 as part of Exhibit 13.) I have found that the 792 cases that aren't about Rule 60 are about criminal matters, habeas corpus, etc. None of the cases that I have reviewed from the 792 has made any pronouncement that a closed case such as MIST-1 cannot be reopened. Cases citing Rule 60(b), Rule 60(d), and the Court's Inherent Powers make it clear that closed cases are subject to efforts to reopen. Judge Evans lied. This proves terminal bias.

799. **BIAS #658** -- It was clear to me that the Hearing on April 8, 2010 was a charade. For the flavor of the Hearing, see MIST-1_Doc.768, p.16, 27, 34, 42, 44-49, 52, 54-57, 62-66, 70-79, 89, 95, 100, 101. Judge Evans cut me off in mid-sentence on page 95 and immediately issued her "decision."

P.16:

1 MR. WINDSOR: YOUR HONOR, MAY I OBJECT? I NOTIFIED
2 YOU THAT I HAD A NUMBER OF OBJECTIONS AND STATEMENTS.
3 THE COURT: YEAH, BUT WE'RE NOT READY FOR YOUR
4 OBJECTIONS, THOUGH. YOU JUST NEED TO WAIT.

9 MR. WINDSOR: SO, YOUR HONOR, I'M NOT ALLOWED TO MAKE
10 OPENING STATEMENT?
11 THE COURT: YES, YOU WILL BE. WHAT WE'RE GOING TO DO
12 IS WAIT FOR YOUR SIDE OF THE CASE, AND YOU'LL BE ABLE TO MAKE
13 AN OPENING STATEMENT, AND I THINK WHAT WE'LL DO IS PUT YOU

17 MR. WINDSOR: YOUR HONOR, I WANT TO PUT ON THE RECORD
18 THAT I'D LIKE TO OBJECT TO THE FORMAT IN WHICH THIS IS BEING
19 DONE BECAUSE I HAVE A SERIES OF OBJECTIONS THAT SHOULD LEAD US

20 TO NOT CALLING ANY WITNESSES TODAY.

21 THE COURT: WE'LL RESERVE YOUR OBJECTIONS UNTIL

22 LATER.

P.26:

Questioning the so-called Expert Witness about the attorneys' fees charged:

24 Q. OKAY. LET'S JUST TALK ABOUT THE MOTIONS THAT WERE FILED,

25 THE RESPONSES AND THE REPLIES. ON ANY OF THEM, DID YOU READ

P.27:

1 EVERY DOCUMENT?

2 A. SURE.

3 Q. WHICH ONE?

4 A. CAN'T TELL YOU.

5 Q. DON'T REMEMBER?

6 A. NO.

7 Q. WOULD IT HELP IF --

8 A. THERE WERE 62 OF THEM.

9 Q. WOULD IT HELP IF YOU LOOKED AT A DOCKET SHEET?

10 THE COURT: WE DON'T NEED TO DO THAT. LET'S MOVE ON.

P.33:

11 Q. WELL, HAVE YOU BEEN INVOLVED IN CASES WHERE THERE'S BEEN

12 DISHONESTY, SIR?

13 THE COURT: THAT'S NOT A PROPER QUESTION.

14 MR. WINDSOR: YOUR HONOR, WHAT WE'RE TALKING ABOUT

15 HERE THIS WHOLE CASE IS ABOUT --

16 THE COURT: DON'T ARGUE WITH ME. I'M GOING TO GIVE

17 YOU TWO MINUTES TO FINISH UP WITH THIS WITNESS.

18 MR. WINDSOR: I HAVE GOT 92 QUESTIONS LEFT.

19 THE COURT: NO, YOU WON'T BE ASKING 92 QUESTIONS.

20 YOU'VE GOT TWO MINUTES TO FINISH UP. ALL WE'RE COVERING WITH

21 THIS WITNESS OR WE WERE SUPPOSED TO BE COVERING WAS THE

22 REASONABLENESS OF THE FEES AND EXPENSES.

23 BY MR. WINDSOR:

24 Q. SIR, IF THE PLEADINGS OF THE PLAINTIFFS WERE ALL FALSE,

25 HOW REASONABLE WOULD THOSE FEES BE THAT WERE INCURRED?

P.34:

1 THE COURT: THAT'S NOT A PROPER QUESTION. HAVE YOU

2 GOT ANYTHING ELSE?

3 MR. WINDSOR: YOUR HONOR, I DON'T UNDERSTAND WHY

4 THAT'S NOT A PROPER QUESTION. THE WHOLE ISSUE HERE IS THAT

5 THESE PEOPLE LIED ABOUT EVERYTHING.

6 THE COURT: THE QUESTION BEFORE 'THE COURT IS

7 THE REASONABLENESS OF THE FEES AND EXPENSES THAT HAVE BEEN

8 CLAIMED AND THAT'S IT. YOU'RE REALLY TRYING TO GO OUTSIDE

9 THAT.

10 MR. WINDSOR: YOUR HONOR, THE ONLY WAY I THINK IS

11 LOGICALLY. NOW LOGICALLY IF THE QUESTION HERE IS WHETHER THE

12 MONEY THAT WAS SPENT WAS SPENT INAPPROPRIATELY BECAUSE OF MY

13 ACTIONS, THEN WE HAVE TO LOOK AT WHAT CAUSED ME TO DO WHAT I

14 DID.

15 THE COURT: NO, WE DON'T. THAT'S THE FLAW IN YOUR

16 LOGIC.

17 MR. WINDSOR: I DON'T UNDERSTAND THAT. COULD YOU

18 EXPLAIN IT TO ME?

19 THE COURT: WE'RE GOING TO NEED TO MOVE ON. YOU HAVE

20 A SEAT, MR. WINDSOR. YOU CAN STEP DOWN, SIR. THANK YOU.

P.42:

4 THE COURT: LET ME JUST ASK FOR CLARIFICATION. WHAT

5 IS THAT DOCUMENT?

6 THE WITNESS: THE COMPLAINT IN THIS CASE.

7 THE COURT: IN OUR CASE?
8 THE WITNESS: YES.
9 THE COURT: I DON'T BELIEVE YOUR QUESTION WOULD HELP
10 ILLUMINATE ANY ISSUES ABOUT FEES THAT ARE THE SUBJECT OF
11 TODAY'S HEARINGS. SO LET'S GO ON TO SOMETHING ELSE.
12 MR. WINDSOR: WHAT IT WILL ILLUMINATE, YOUR HONOR, IS
13 THE WHOLE FRAUD THAT THIS THING IS BASED ON.
14 THE COURT: WELL, I DON'T BELIEVE IT DOES. SO LET'S
15 MOVE ON. DO YOU HAVE ANY QUESTIONS ABOUT THE FEES THAT HE
16 WANTS TO COLLECT?

P.43:

15 AGAIN IT'S BEYOND THE SCOPE OF THE REASONABLENESS OF PHILLIPS
16 LYTLE'S ATTORNEY'S FEES POST-JUDGMENT.
17 THE COURT: I THINK THAT'S CORRECT. I'LL SUSTAIN
18 THAT OBJECTION.
19 MR. WINDSOR: WELL, HE TURNED IN THE TIME, YOUR
20 HONOR.
21 THE COURT: ALL I CARE ABOUT IS WHAT I HAVE BEFORE ME
22 IN THIS CASE AND WHETHER IT'S REASONABLE.

23 MR. WINDSOR: BUT HE TURNED THE TIME IN IN THIS CASE,
24 YOUR HONOR. SO IT SEEMS TO ME THE FACT THAT THE JUDGE SAID
25 ATLANTA DOESN'T PERTAIN TO THIS IS SIGNIFICANT. THEY SHOULDN'T

P.44:

1 BE ABLE TO PUT THAT TIME IN.
2 THE COURT: RIGHT. WE CAN FERRET OUT FOR OURSELVES
3 WHETHER THE FEE APPLICATION IN THIS CASE PERTAINS ONLY TO THIS
4 CASE. LET'S MOVE ON.
5 MR. WINDSOR: YOUR HONOR, I'VE GOT 92 QUESTIONS. I
6 ASSUME YOU'RE NOT GOING TO LET ME ASK THEM.
7 THE COURT: I'M GUESSING THAT I'M NOT. TELL ME WHAT
8 SOME OF YOUR QUESTIONS ARE?
9 MR. WINDSOR: HAS BILL WINDSOR EVER LIED IN ANY COURT
10 FILING.
11 THE COURT: THAT WOULD NOT BE A PROPER QUESTION IN
12 THIS HEARING.
13 MR. WINDSOR: DID THE PLAINTIFFS FILE PAPERS IN THIS
14 CASE SAYING THAT MOTIONS FOR SANCTIONS WERE NOT ALLOWED BECAUSE
15 THE CASE IS CLOSED
16 THE COURT: THAT WOULDN'T BE A PROPER QUESTION

17 EITHER.

18 MR. WINDSOR: OKAY.

19 THE COURT: I MEAN THE FILE WILL SPEAK FOR ITSELF.

20 WHATEVER IS IN THE FILE IS IN THE FILE.

21 MR. WINDSOR: HOW MANY CASES CAN YOU SITE WHERE A PRO

22 SE NONATTORNEY PARTY HAD BEEN SANCTIONED UNDER ANY OF THE

23 STATUTES THAT ARE PART OF THIS MATTER.

24 THE COURT: THAT WOULD NOT BE AN ALLOWABLE QUESTION.

25 MR. WINDSOR: WHAT IS CLAIM PRECLUSION.

P.45:

1 THE COURT: OUTSIDE THE SCOPE OF THIS HEARING.

2 MR. WINDSOR: YOUR HONOR, I GUESS I HAVE A LITTLE

3 CONFUSION OVER THE SCOPE OF THE HEARING.

4 THE COURT: IT PERTAINS ONLY TO THE REASONABLENESS OF

5 THE FEES AND EXPENSES THAT HAVE BEEN EXPENSED IN THIS CASE, AND

6 IN ADDITION I WOULD HAVE TO SAY IN FAIRNESS TO THE QUESTION OF

7 WHETHER YOU SHOULD BE SANCTIONED; IN OTHER WORDS, THE

8 PLAINTIFFS ARE CONTENDING THAT YOU HAVE ACTED WITH MALICE AND

9 THAT YOUR ACTIONS HAVE UNREASONABLY AND VEXATIOUSLY MULTIPLIED

10 THE PROCEEDINGS BEFORE THE COURT.

11 YOU ARE CERTAINLY FREE TO ADDRESS THAT IF YOU WISH TO

12 DO SO, BUT SO FAR THE WITNESSES THAT HAVE BEEN CALLED HAVE BEEN

13 TESTIFYING ONLY ABOUT THE REASONABLENESS OF THE FEES.

14 MR. WINDSOR: THE BAD FAITH IS AN ISSUE, YOUR HONOR?

15 THE COURT: WHETHER OR NOT YOU ACTED IN BAD FAITH IS

16 AN ISSUE.

17 MR. WINDSOR: AND EACH OF THE THREE STATUTES IS AT

P.46:

7 MR. WINDSOR: OKAY. SO IS IT INAPPROPRIATE FOR ME TO

8 ASK HIM ANY QUESTIONS ABOUT THE ISSUES THAT YOU SAID WOULD BE

9 COVERED OR IS HE ONLY SPEAKING TO WHAT PEOPLE GET PAID IN

10 BUFFALO.

11 THE COURT: AT THIS POINT HE IS REALLY ONLY SPEAKING

12 TO THE RATES CHARGED, WERE THEY REASONABLE AND ALSO WHETHER THE

13 AMOUNT OF WORK THAT WAS DONE WAS REASONABLE.

P.47:

18 Q. OVER FOUR YEARS AND IF YOU WANT TO TAKE FROM MAY 22ND ON,
19 THERE WERE A NUMBER OF REQUESTS FOR CONFERENCES AND HEARINGS.
20 DID YOU EVER DISCUSS THE IDEA OF HEY, LET'S JUST AGREE TO ONE
21 AND WE CAN LIMIT THE COST?
22 **MS. BRIGHT: OBJECT TO THIS LINE OF QUESTIONING.**
23 **THE COURT: I'LL SUSTAIN THE OBJECTION. WE NEED TO**
24 **MOVE ON TO THE NEXT WITNESS, MR. WINDSOR. WE'RE NOT GETTING**
25 **ANYWHERE WITH THIS. YOU CAN STEP DOWN, SIR.**

P.48:

1 THE WITNESS: THANK YOU, YOUR HONOR.
2 THE COURT: DO YOU ALL WISH TO CALL ANY FURTHER
3 WITNESSES?
4 MR. ANDERSON: YOUR HONOR, WE HAVE MR. SCHUL HERE TO
5 BASICALLY TESTIFY ABOUT HIS DECLARATION, BUT IF YOU'LL ACCEPT
6 HIS DECLARATION, THEN I DON'T THINK THAT WE NEED TO --
7 THE COURT: I DON'T RECALL. WHAT DOES HE SAY IN HIS
8 DECLARATION.

9 MR. ANDERSON: BASICALLY HE'S GOING TO SAY THAT THEY

10 PAID OUR BILLS AND THE AMOUNTS HAVE BEEN PAID, AND WE'RE

11 PREPARED TO SHOW ALL THAT, BUT IT IS ALSO IN HIS DECLARATION,

12 THOUGH THERE HAS BEEN SOME UPDATING SINCE THERE HAS BEEN SOME

13 BILLINGS IN BETWEEN, AND THEN AFTER THAT DEPENDING ON HOW YOUR

14 HONOR WANTED TO PROCEED ABOUT THE ABILITY TO PAY, THEN MR.

15 WINDSOR WOULD BE THE NEXT INDIVIDUAL.

16 THE COURT: SO YOU WANT TO CALL HIM AS A WITNESS?

17 MR. ANDERSON: YES, WITH REGARD TO HIS ABILITY TO

18 PAY.

19 THE COURT: MR. WINDSOR, IS IT NECESSARY TO CALL MR.

20 SCHUL TO THE STAND TO ESTABLISH THAT THEY HAVE ACTUALLY PAID

21 THESE BILLS THAT HAVE BEEN SENT TO THEM?

22 MR. WINDSOR: WELL, I WOULD SAY IT'S NECESSARY TO

23 CALL MR. SCHUL TO THE STAND TO DETERMINE WHETHER OR NOT HE HAS

24 ANY HONESTY THAT THIS COURT COULD ASSUME THAT ANYTHING HE SAYS

25 IS TRUE. THAT WOULD BE THE REASON.

P.49:

1 THE COURT: I DON'T WANT TO CALL HIM TO THE STAND FOR
2 THAT PURPOSE.
3 MR. WINDSOR: LET ME SAY THAT HE HAS LIED UNDER
4 OATH. I HAVE DOCUMENTED THOSE LIES WITH PROOF. IN ALL DUE
5 RESPECT, YOU EITHER HAVEN'T READ THEM OR HAVE IGNORED THEM.
6 IT'S DOCUMENTED WITH THE TESTIMONY OF THEIR FELLOW MANAGERS.
7 I'VE DONE THAT ON ALL OF THEM.
8 THE COURT: OKAY. STOP RIGHT THERE. IT SEEMS TO

16 THE COURT: WHAT I'M WONDERING IS IS IF I ADMIT YOUR
17 DECLARATION WHICH I'M PLANNING TO DO DOES THAT COVER THE
18 ELEMENT OF WHAT BILLS HAVE BEEN PAID?
19 MR. ANDERSON: ONE OF THE ELEMENTS IS THAT WE HAVE TO
20 SHOW THAT WE WERE ACTUALLY PAID, YES, YOUR HONOR, IT WOULD SHOW
21 THAT.
22 THE COURT: OKAY. WELL, I AM GOING TO GO AHEAD AND
23 ADMIT YOUR DECLARATION. SO AT THIS POINT IN TIME I DON'T THINK
24 YOU REALLY NEED TO CALL MR. SCHUL.
25 WHAT ELSE NOW?

P.52:

1 REFERS TO DEFENDANTS AND WITH REGARD TO IT WAS DEFENDANTS
2 ABILITY TO PAY AND NOT MR. WINDSOR.
3 THE COURT: RIGHT. I BELIEVE YOU ARE SEEKING TO
4 COLLECT THESE FEES NOT JUST FROM MR. WINDSOR PERSONALLY BUT
5 FROM THE OTHER PEOPLE, THE OTHER ENTITIES OR PEOPLE.
6 MR. ANDERSON: WE HAVE VERY LIMITED INFORMATION ON
7 ALCATRAZ. WE WERE ABLE TO FIND MORE ON RYAN WINDSOR THEN WE
8 WERE ABLE TO FIND ON ALCATRAZ.
9 MR. WINDSOR: YOUR HONOR, ALCATRAZ ISN'T INVOLVED IN
10 THIS. THEY HAVEN'T BEEN REPRESENTED BY COUNSEL FOR 18 --
11 THE COURT: WELL, LET'S NOT GET OFF ON THAT SIDE
12 ISSUE FOR RIGHT NOW. I THINK WHAT I'M GOING TO DO IS THIS. TO
13 AVOID GETTING BOGGED DOWN TOO MUCH AT THIS POINT, I'M GOING TO
14 GO AHEAD AND UTILIZE -- YOU SAY IT'S IN YOUR AFFIDAVIT WHERE
15 YOU TALK ABOUT IT?
16 MR. ANDERSON: YES, I THINK IT'S IN MY DECLARATION
17 WITH REGARD TO THE CONTEMPT. I ACTUALLY ATTACHED -- I DID AN

18 ONLINE SEARCH MYSELF, PULLED OFF THE DEEDS --

19 THE COURT: OKAY. SO IT'S NOT IN THE DECLARATION YOU

20 DID ON THE FEES, IT'S A SEPARATE THING?

21 MR. ANDERSON: YES, YOUR HONOR.

22 THE COURT: I THINK WHAT I'LL GO AHEAD AND DO IF

23 YOU'LL MARK A COPY OF THAT I'M GOING TO ADMIT IT INTO EVIDENCE

24 FOR PURPOSES OF THIS HEARING, AND I THINK THAT MIGHT THEN ALLOW

25 US TO MOVE TO MR. WINDSOR'S PRESENTATION AND THEN WE'LL SEE IF

P.54:

25 MR. WINDSOR: I PLAN TO CALL WITNESSES INCLUDING

P.55:

1 SOMEBODY WHO WILL FLY IN FROM FLORIDA AND ONE FROM NEW YORK.

2 THE COURT: WHERE ARE THEY?

3 MR. WINDSOR: ONE IS IN FLORIDA AND ONE IS IN NEW

4 YORK.

5 THE COURT: WELL, I'M GOING TO FINISH THIS HEARING

6 TODAY.

7 MR. WINDSOR: WE'RE GOING TO GO FOR A WHILE THEN.

8 THE COURT: AND WE WILL MOVE WITH SUITABLE DISPATCH.

9 LET'S MOVE AHEAD.

10 MR. WINDSOR: ALL RIGHT. FIRST, YOUR HONOR, I WOULD

11 LIKE TO OBJECT TO A WIDE VARIETY OF THINGS. THIS ORDER IS NOW

12 THE SUBJECT OF A MOTION FOR RECONSIDERATION THAT WAS SUBMITTED

13 TO YOU. IT WAS SUBMITTED ON A TIMELY BASIS. I DON'T HAVE THE

14 RIGHT TO FILE ANYTHING, BUT I DON'T BELIEVE THAT I SHOULD BE

15 DENIED TO RIGHT TO ASK FOR A RECONSIDERATION. I HAVEN'T

16 PRESENTED THE ARGUMENTS AND THE INFORMATION ON THAT BECAUSE I

17 DIDN'T HAVE THE TIME AND DIDN'T KNOW IF IT WOULD BE ALLOWED.

18 SO THAT'S MY FIRST OBJECTION.

19 SECOND IS THAT I FILED A NOTICE YESTERDAY WITH THE

20 ELEVENTH CIRCUIT, FILED A PETITION FOR A WRIT OF MANDAMUS TO

21 DECLARE THIS HEARING AND THE MANNER IN WHICH IT'S BEEN HANDLED

22 TO BE IMPROPER AND TO HAVE THEM TO DIRECT YOU HOW TO DEAL WITH

23 IT. SO THAT'S BEEN FILED. SO THAT MEANS THIS IS ON APPEAL.

24 SO I WANTED TO SAY THIS AT THE BEGINNING. I DON'T KNOW THAT WE

25 HAVE ANY REASON TO BE HERE AS A RESULT OF BOTH OF THOSE.

P.56:

1 NEXT I WANT TO ASK FOR A CONTINUANCE. I WASN'T EVEN
2 GIVEN THE OPPORTUNITY TO PROVIDE A WRITTEN RESPONSE TO THIS.
3 IT WAS GIVEN TO ME. IT WAS TAKEN AWAY. I TRIED TO FIND OUT
4 WHAT YOU WANTED TO DO AND YOU CHOSE NOT TO RESPOND TO ME. I'VE
5 GOT --
6 THE COURT: NOW I DID SAY IN AN ORDER THAT YOU COULD
7 FILE A RESPONSE TO MR. ANDERSON'S PETITION FOR AN AWARD OF FEES
8 AND EXPENSES.
9 MR. WINDSOR: BUT THEN THE NEXT DAY I GOT ONE, YOUR
10 HONOR, AND I'VE DOCUMENTED THAT TO YOU, THAT SAID THE ONLY
11 THING I COULD DO IS FILE ONE RESPONSE APRIL 2ND REGARDING THE
12 INJUNCTION. IT WAS VERY SPECIFIC.
13 THE COURT: NO, THAT'S THE OTHER HEARING THAT'S
14 COMING UP NEXT FRIDAY.
15 MR. WINDSOR: RIGHT.
16 THE COURT: I SAID YOU COULD FILE -- THAT EACH PARTY
17 COULD FILE ONE RESPONSE, BUT YOU CAN'T REPRESENT THE OTHER
18 PARTIES AT THE CONTEMPT HEARING.

19 NOW GETTING BACK TO THIS HEARING TODAY, I'M PRETTY
20 SURE I DID SAY THAT YOU COULD FILE A RESPONSE TO MR. ANDERSON'S
21 PETITION, HIS MOTION FOR AN AWARD OF ATTORNEY'S FEES AND
22 EXPENSES.
23 MR. WINDSOR: YOU DID INDICATE THAT. THEN THE NEXT
24 DAY YOU ENTERED AN ORDER WHICH SAID THE ONLY THING THAT COULD
25 BE DONE WAS THE APRIL 2ND, AND THEN I WROTE YOU A LETTER OR

P.57:

1 SOME LETTERS BACK AND FORTH TO WHICH YOU DIDN'T RESPOND, AND SO
2 YESTERDAY I SENT YOU SOMETHING SAYING I'M GOING TO FILE THE
3 MOTION FOR RECONSIDERATION AND THE APPEAL.
4 I THINK IF YOU LOOK AT THOSE ORDERS -- I HAVE A
5 LETTER THAT I SENT TO YOU IF YOU WANT ME TO GET IT -- THAT
6 ATTACHED AS EXHIBITS EACH OF THE THINGS THAT HAPPENED, AND
7 PERHAPS YOU DIDN'T INTEND TO DO WHAT YOU DID ON THE SECOND
8 ORDER, BUT IT'S REAL SPECIFIC AND HERE I'M BEING THREATENED
9 WITH BEING PUT IN JAIL --
10 THE COURT: THAT'S NEXT WEEK.
11 MR. WINDSOR: THAT'S NEXT WEEK.

12 THE COURT: RIGHT.
13 MR. WINDSOR: BUT WHEN YOU THREATEN IN AN ORDER WITH
14 BEING PUT IN JAIL, YOU CERTAINLY WANT TO GO BY THE RULES. SO I
15 WENT BY THE RULES.
16 MY COPIER JAMMED LAST NIGHT ABOUT ELEVEN O'CLOCK.
17 I'VE GOT PHOTOGRAPHS OF THE JAM. I HAVE SOME ADDITIONAL
18 DOCUMENTS THAT I WOULD LIKE TO PRESENT, BUT I COULDN'T GET THE
19 COPIER FIXED UNTIL ABOUT TEN O'CLOCK THIS MORNING.
20 SO I'VE HAD NO OPPORTUNITY TO DEPOSE ANYBODY, TO TALK
21 TO THE EXPERT WITNESS, TO DEPOSE THE EXPERT WITNESS. SO I
22 WOULD ASK FOR A CONTINUANCE.
23 THE FEDERAL RULES OF CRIMINAL PROCEDURE HAVE NOT BEEN
24 FOLLOWED HERE. RULE 42 AND VARIOUS OTHER RULES, I HAVE PHOTO
25 COPIES OF THEM, STATE THAT WHEN A -- AND I'VE GOT COURT CASES

P.62:

1 YOU'RE TALKING ABOUT THAT YOU WOULD WANT TO SUBPOENA OR DEPOSE
2 ARE ALL PEOPLE WHOSE KNOWLEDGE OF THE CASE WAS ALL HANDLED
3 BEFORE THE JUDGMENT IN THE CASE BECAME FINAL. I DON'T SEE HOW

4 THEY COULD HAVE ANY RELEVANCE TO THE PENDING MOTION FOR
5 ATTORNEY'S FEES AND EXPENSES.
6 MR. WINDSOR: YOUR HONOR, YOU TOLD ME JUST A MINUTE
7 AGO WHEN WE STARTED THIS SESSION WHAT DO I WANT YOU TO
8 CONSIDER. WHAT I WANT YOU TO CONSIDER IS THE FACT THAT YOU
9 MADE A TERRIBLE MISTAKE, AND I'VE GOT WITNESSES THAT CAN PROVE
10 IT, AND I'VE NEVER BEEN GIVEN THE OPPORTUNITY TO PRESENT A
11 SINGLE SOLITARY WITNESS OR HAVE ANYBODY SIT AND LOOK AT THE
12 EVIDENCE UNCONTROVERTED AND SEE THAT I AM ABSOLUTELY A HUNDRED
13 PERCENT RIGHT AND YOU'RE A HUNDRED AND TEN PERCENT WRONG AND
14 THESE PEOPLE ARE DISHONEST.
15 SO CAROLYN YOU DIDN'T ALLOW HER DEPOSITION EVEN
16 THOUGH HER TESTIMONY WAS CITED IN THE MATERIALS THAT WAS
17 SUBMITTED AT THE SUMMARY JUDGMENT.
18 THE COURT: RIGHT, BUT YOU SEE AT THIS POINT, MR.
19 WINDSOR, THE CASE IS CLOSED. IT'S OVER. I HAVE NO
20 JURISDICTION AT THIS POINT TO REDO THE CASE. I JUST DON'T.
21 EVEN IF I WANTED TO DO IT, WHICH CANDIDLY I DON'T, I COULDN'T
22 DO IT.

23 I MEAN THESE PEOPLE, THE MAID PLAINTIFFS HAVE RIGHTS,
24 AND WHEN THE CASE IS OVER, IT'S OVER, AND THIS COURT HAS NO
25 MORE JURISDICTION TO DO ANYTHING, AND I THINK THIS IS A VERY

P.63:

1 FUNDAMENTAL FACT THAT YOU'VE OVERLOOKED IN ALL OF YOUR
2 POST-JUDGMENT EFFORTS, AND IT HAS BEEN A FRUSTRATION TO ME THAT
3 YOU HAVEN'T BEEN ABLE TO ACCEPT THAT THE CASE IS OVER.
4 MR. WINDSOR: WELL, YOUR HONOR, I HAVE WORKED 16, 17
5 HOURS A DAY, A COUPLE OF YEARS ON THIS. THAT'S PROBABLY --
6 TAKE ONE DAY OUT, SIX DAYS A WEEK AT LEAST. I HAVE
7 RESEARCHED. I HAVE SPENT THOUSANDS OF HOURS I'M SURE ON
8 VERSUSLAW AND PACER. I HAVE READ OVER OR REVIEWED THE RELEVANT
9 PORTIONS OF THOUSANDS OF CASES.
10 SO WHEN YOU SAY THE CASE IS CLOSED, THAT'S NOT TRUE
11 BASED ON EVERYTHING I HAVE READ, AND IF YOU COULD POINT ME TO
12 SOMETHING ELSE THAT WOULD TELL ME THAT WHAT YOU'RE TELLING ME
13 IS CHISELED IN STONE AND IS THE ONLY THING I CAN CONSIDER, I
14 WOULD BE HAPPY TO LOOK AT THAT.

15 THE COURT: LET ME ASK YOU THIS. HAVE YOU -- WHY

16 HAVEN'T YOU TALKED TO A LAWYER ABOUT THIS? THIS IS -- THE

17 MATTER OF FINALITY OF JUDGMENTS IS SOMETHING THAT LAWYERS KNOW

18 ABOUT AND MAYBE LAY PEOPLE DON'T KNOW ABOUT.

19 BUT I DON'T UNDERSTAND WHY WITH ALL THE WORK YOU'VE

20 DONE ON THIS CASE AND SUSPECTING, AS I DO, THAT YOU HAVE PLENTY

21 OF RESOURCES TO HIRE A LAWYER, WHY YOU HAVEN'T DONE THAT

22 BECAUSE THAT WOULD BE A REALLY GOOD WAY FOR YOU TO GET

23 INFORMATION ABOUT WHETHER IT'S CORRECT THAT ONCE A CASE IS OVER

24 IT'S OVER.

25 MR. WINDSOR: RULE 60(B), YOUR HONOR, REOPENS CASES

P.64:

1 DOESN'T IT, RULE 60(D) --

2 THE COURT: YOU DID THAT, THOUGH. YOU BROUGHT A

3 MOTION, A RULE 60(B) MOTION WHICH I DENIED AND THE COURT OF

4 APPEALS AFFIRMED ME, AND EVEN AFTER THE RULE 60(B) MOTION YOU

5 CONTINUED TO FILE ALL THESE OTHER MOTIONS THAT DO NOT BRING THE

6 CASE BACK.
7 MR. WINDSOR: I HAVE --
8 THE COURT: YOU HAVEN'T ANSWERED MY QUESTION. WHY
9 HAVEN'T YOU TALKED TO A LAWYER ABOUT THIS?
10 MR. WINDSOR: I HAVE TALKED TO A DOZEN MAYBE. NONE
11 OF THEM WANT TO GET INVOLVED WITH GOING UP AGAINST A JUDGE.
12 THE COURT: WELL, LET'S STICK WITH MY QUESTION,
13 THOUGH. I CAN APPRECIATE THERE MIGHT BE SOME LAWYERS THAT
14 WOULDN'T WANT TO SUE ME. I CAN UNDERSTAND THAT. ALTHOUGH
15 FRANKLY I THINK IN A CITY THIS BIG, THERE ARE LAWYERS OUT THERE
16 THAT WOULD DO IT.
17 MR. WINDSOR: THERE PROBABLY ARE.
18 THE COURT: BUT LET'S FORGET ABOUT ME FOR THE
19 MOMENT. WHAT WE'RE TALKING ABOUT HERE TODAY IS MAID OF THE
20 MIST. THEY'RE THE PARTIES THAT ARE AGGRIEVED, AND THEY WANT AN
21 AWARD OF ATTORNEY'S FEES FOR HAVING TO HANG IN THERE AND REVIEW
22 AND FILE RESPONSES TO ALL OF THE POST-JUDGMENT STUFF THAT YOU
23 HAVE FILED, AND MY QUESTION FOR YOU IS WHY HAVEN'T YOU
24 CONSULTED A LAWYER ABOUT WHETHER IT'S PROPER FOR YOU TO

25 CONTINUE FILING THESE THINGS?

P.65:

1 MR. WINDSOR: YOUR HONOR, AS I SAY I HAVE TALKED TO
2 ABOUT A DOZEN. I THINK I LISTED MOST OF THEIR NAMES ONCE IN
3 SOMETHING THAT WAS FILED, AND THEY'RE AFRAID OF REPRISALS
4 AND --
5 THE COURT: HAVE YOU SPECIFICALLY ASKED A LAWYER
6 WHETHER IT'S OKAY TO GO ON AND KEEP FILING THINGS AFTER A CASE
7 IS OVER, OR ASK A LAWYER IS IT TRUE THAT I CAN'T DO ANYTHING,
8 IS IT REALLY TRUE THIS CASE IS OVER. THAT'S WHAT I WANT TO
9 KNOW.
10 MR. WINDSOR: YOUR HONOR, I NEVER GOT THAT FAR.
11 BASICALLY I BEGAN A DISCUSSION WITH EACH OF THEM TELLING THEM
12 WHERE I WAS AND WHAT WE NEEDED, AND IT'S AMAZING HOW QUICKLY
13 THEY WILL STOP TALKING TO YOU. SOME OF THEM CAME RIGHT OUT AND
14 SAID THERE IS NO WAY I CAN DO THAT, I HAVE TO MAKE A LIVING, I
15 CAN'T DO THAT.
16 THE COURT: THEY COULDN'T ADVISE YOU ON A CASE
17 INVOLVING MAID OF THE MIST? THOSE ARE COMPANIES FROM OUT OF

18 TOWN. IT'S NOT LIKE SUING COCA COLA IN ATLANTA.

19 MR. WINDSOR: NO, IT'S HAWKINS & PARNELL WHO'S

20 AWFULLY BIG AND YOU, YOUR HONOR. THEY JUST DON'T WANT ANY PART

21 OF IT. AS I LOOK AT THE CASE LAW THERE'S HARDLY ANY CASES

22 WHERE SOMEBODY PURSUES SOMETHING LIKE THIS BECAUSE NOBODY CAN

23 RISK GOING AFTER THE JUDGES.

24 THE COURT: FORGET ABOUT ME FOR A MINUTE. LET'S JUST

25 TALK ABOUT MAID OF THE MIST. WHAT WOULD STOP YOU FROM ASKING A

P.66:

1 LAWYER ABOUT YOUR CASE WITH MAID OF THE MIST AND WHETHER IT'S

2 OKAY TO KEEP ON FILING THINGS EVEN AFTER YOU'VE BEEN SANCTIONED

3 FOR FILING FRIVOLOUS THINGS. I JUST DON'T APPRECIATE -- DON'T

4 UNDERSTAND WHAT WOULD KEEP YOU FROM DOING THAT.

5 MR. WINDSOR: I SPOKE WITH ATTORNEYS TRYING TO FIND

6 SOMEBODY TO BE INVOLVED. THEY WOULDN'T BE INVOLVED. I

7 LITERALLY CALLED EVERY ATTORNEY THAT I KNEW AND ASKED THEM TO

8 REFER ME TO OTHER PEOPLE, MOST OF WHOM WEREN'T GOING TO DO THAT
9 BUT SOME WHO DID, AND I TALKED TO A BUNCH OF PEOPLE. I WENT TO
10 A BUNCH OF GUYS WHO HANDLE --
11 THE COURT: WELL, LET'S GO BACK A WAYS. LET ME ASK
12 YOU ANOTHER QUESTION. YOU REMEMBER WHEN WE HAD THE CASE GOING
13 ON BEFORE THE FINAL JUDGMENT, ALCATRAZ HAD A LAWYER
14 REPRESENTING IT, AND I THINK HE MAY HAVE REPRESENTED YOUR SON
15 ALSO. I'M NOT POSITIVE ABOUT THAT, BUT YOU DID NOT USE THAT
16 LAWYER.
17 INSTEAD OF USING HIS SERVICES, YOU WERE FILING ALL OF
18 YOUR OWN STUFF WHICH SOME OF IT WAS RATHER FAR-FETCHED I
19 THOUGHT. WHY WERE YOU REPRESENTING YOURSELF AT THAT TIME? YOU
20 HAD A LAWYER REPRESENTING THE ALCATRAZ ENTITIES, AND IT WOULD
21 HAVE BEEN, I WOULD THINK, NOT THAT EXPENSIVE TO ADD YOU ON AS
22 ONE OF THE CLIENTS. I MEAN YOU ALL WERE SORT OF ONE CONTIGUOUS
23 GROUP, AND, YET, YOU ELECTED NOT TO USE HIM AS A LAWYER. WHY
24 NOT?
25 MR. WINDSOR: OKAY. IT'S A LITTLE MORE INVOLVED

1 THE COURT: I DO NOT REMEMBER.
2 MR. WINDSOR: IT'S IN THERE. YOU HAD ASKED HIM WELL
3 WHO DOES THE MOTIONS OR WHATEVER, AND HE SAID THAT WE
4 COLLABORATED ON THEM WHICH IS TRUE. HE BASICALLY DID THEM, BUT
5 I LOOKED AT THEM AND GAVE HIM MY INPUT. I DON'T THINK I EVER
6 DRAFTED ANYTHING EXCEPT ONE OR TWO DOCUMENT REQUESTS. THERE
7 MAY HAVE BEEN A FEW OTHERS, BUT NOTHING REALLY MEANINGFUL.
8 THE COURT: OKAY. SO YOUR POSITION ON THE FINALITY
9 OF JUDGMENTS IS YOU JUST DON'T ACCEPT THE IDEA THAT THERE WAS A
10 FINAL JUDGMENT IN THIS CASE. YOUR IDEA IS THAT AS FAR AS YOU
11 KNOW HAVING DONE YOUR OWN RESEARCH THAT IT'S OKAY TO KEEP ON
12 FILING THINGS IN THIS COURT.
13 MR. WINDSOR: YES, YOUR HONOR, AND, YOU KNOW, I'VE
14 CITED CASES. I FOUND CASES THAT WENT BACK -- I THINK ONE WENT
15 BACK LIKE 50 OR 60 YEARS INVOLVING --
16 THE COURT: WHAT WOULD IT TAKE TO CONVINCE YOU THAT
17 YOU AS A LAYPERSON ARE WRONG ABOUT THAT?

18 MR. WINDSOR: I GUESS MAYBE SOME CASES. BECAUSE THE
19 CASES THAT I FOUND AND HAVE CITED INCLUDING A REALLY GOOD
20 ELEVENTH CIRCUIT CASE WAS A CASE WHERE I THINK IT WAS MAYBE
21 EIGHT OR TEN YEARS LATER THAT THEY CAME BACK, FILED A RULE
22 60(B) MOTION BASED ON NEW EVIDENCE. THE PEOPLE HAD ACTUALLY
23 BEEN PAID SOME HUGE AMOUNT OF MONIES, THREE QUARTERS OF A
24 MILLION DOLLARS OR SOMETHING, AND THE ELEVENTH CIRCUIT REVERSED
25 THE RULING BECAUSE THEY WERE DEFRAUDED AND EVEN LET THEM KEEP

P.71:

1 THE 750 AND I DON'T KNOW WHAT HAPPENED BEYOND THAT.
2 BUT I'VE GOT THAT AND ANY NUMBER OF CASES WHERE A
3 RULE 60 MOTION OR SOME CASES WHERE IT'S THE COURT'S INHERENT
4 POWERS WHICH CONTRARY TO WHAT YOU WERE TELLING ME EARLIER
5 SAYING YOU COULDN'T DO ANYTHING SAYS THAT IF THE COURT IS
6 PRESENTED WITH A COMPELLING REASON, THE MAIN IDEA WE'RE ALL
7 HERE ABOUT IS SUPPOSED TO BE JUSTICE, THAT YOU CAN DO SOMETHING
8 ABOUT IT.

9 AND SO YOU STATED IN YOUR ORDER OF MAY 22ND WHEN YOU
10 DENIED THE RULE 60(B) MOTION, DENIED THE MOTION FOR RECUSAL,
11 DENIED MAYBE ONE OR TWO OTHER THINGS, SANCTIONS OR DISCOVERY.
12 ONE OF THOSE MIGHT HAVE BEEN OVERLOOKED AND DONE LATER, BUT
13 BASICALLY 60(B) AND RECUSAL.
14 YOU STATED IN THE ORDER THAT I DIDN'T PRESENT ANY
15 ARGUMENTS RELATIVE TO ONE OF THE 60(B) CATEGORIES. YOU ALSO
16 STATED THAT YOU CAN'T DO 60(B)(6) IF YOU ALSO DO 60(B)(1), BUT
17 I'VE GOT A TON OF CASES THAT SHOW THAT YOU CAN DO THAT.
18 THE COURT: OKAY. SO THE BOTTOM LINE IS YOU'RE NOT
19 GOING TO TRY TO GET A LAWYER'S ADVICE. YOU'VE DECIDED ON YOUR
20 OWN THAT WHAT YOU'RE DOING IS OKAY, EVEN THOUGH YOU'VE BEEN
21 TOLD OTHERWISE.
22 MR. WINDSOR: WELL, YOUR HONOR, WHEN DID YOU TELL ME
23 OTHERWISE? IN THE MAY 22ND ORDER YOU DIDN'T FIND ATTORNEY'S
24 FEES. YOU DENIED THAT. YOU DENIED THE MOTIONS. ALL YOU SAID
25 WAS THE CASE IS CLOSED. ALL RIGHT. BUT AS I RESPONDED BUT

P.72:

THAT'S WHAT 60(B) AND 60(D) AND INHERENT POWERS --

THE COURT: SO YOU FILED YOUR 60(B) MOTION. I FOUND

IT WAS FRIVOLOUS AND DISMISSED IT. THE ELEVENTH CIRCUIT

AFFIRMED ME. I DID NOT AWARD ATTORNEY'S FEES AGAINST YOU

BECAUSE I FELT THAT THE PLAINTIFFS HAD NOT CITED THE RIGHT

STATUTE. THEY WEREN'T GOING UNDER THE RIGHT STATUTE TO GET

ATTORNEY'S FEES. THAT'S WHY THEY WEREN'T ASSESSED THERE.

BUT EVEN IN LIGHT OF THE 60(B) RULINGS, YOU'RE STILL

FINDING THINGS TO TRY TO DREDGE UP THE ORIGINAL CASE AGAIN, AND

THE PROBLEM AS I SEE IT PRIMARILY -- I MEAN I'LL BE CANDID WITH

YOU. I'M TIRED OF THIS CASE. IT'S TAKEN TOO MUCH OF MY TIME.

BUT THE BIGGEST PROBLEM IS THAT YOU ARE HURTING THE

LITIGANTS IN THE CASE. EVERY TIME YOU FILE SOMETHING THEIR

LAWYERS HAVE TO READ IT. THEY HAVE TO TELL THE CLIENT ABOUT

IT. THEY MAY OR MAY NOT HAVE TO FILE A RESPONSE TO IT, BUT

IT'S A LOT OF TROUBLE AND EXPENSE.

TODAY MR. SCHUL AND IS IT RUGMAN, IS HE THE OTHER

GENTLEMAN?

19 MR. ANDERSON: MR. GLYNN.
20 THE COURT: GLYNN. OKAY. THEY CAME DOWN, I PRESUME,
21 FROM NEW YORK FOR THIS HEARING. THAT COSTS MONEY. THAT IS
22 REALLY THE EVIL, THE MOST FUNDAMENTAL EVIL THAT YOUR FILINGS
23 HAVE DONE. IT CREATES A LOT OF TROUBLE AND EXPENSE FOR THEM.
24 MR. WINDSOR: YOUR HONOR, WHY DIDN'T YOU HOLD --
25 THE COURT: JUST A MINUTE. JUST A MINUTE. WHEN THE

P.73:

1 JUDGMENT BECAME FINAL, THEY WERE ENTITLED TO HAVE THAT HONORED,
2 BUT YOU HAVE DONE EVERYTHING YOU CAN, IT SEEMS TO ME, TO KEEP
3 THIS LITIGATION GOING AND TO CONTINUE TO HEAP INSULT AND INJURY
4 ON THESE PEOPLE WHO WON THE LAWSUIT. THAT IS WHAT IS PRIMARILY
5 DISTURBING TO ME.
6 MR. WINDSOR: WELL, I LOOK FORWARD TO EXPLAINING IT
7 TO YOU.
8 THE COURT: AND I GUESS I'M KIND OF GETTING TO THE
9 POINT WHERE I THINK IT IS NOT POSSIBLE TO COMMUNICATE WITH YOU
10 BY JUST SAYING, YOU KNOW, WE'LL ASSESS SOME MORE ATTORNEY'S

11 FEES BECAUSE THAT'S BEEN DONE BEFORE. YOU HAD TO PAY I THINK
12 ALMOST 400,000 DOLLARS, YOU AND THE OTHERS, I DON'T KNOW HOW
13 YOU ALL SPLIT IT UP.
14 BUT THAT SHOULD HAVE BEEN A PRETTY BIG DETERRENT, AND
15 I FEEL THAT AS THE JUDGE IN THE CASE WHEN THE CASE IS OVER AND
16 THERE'S A FINAL JUDGMENT, THE PARTIES HAVE A RIGHT TO THE
17 PROTECTION OF THE FINALITY OF THAT ORDER. THEY DON'T DESERVE
18 TO BE JERKED AROUND WHICH IS WHAT YOU HAVE BEEN DOING WITH THEM
19 I THINK, AND I AM JUST SORT OF AT A LOSS AS TO WHAT TO DO AT
20 THIS POINT. I MEAN I CAN AWARD ATTORNEY'S FEES BUT --
21 MR. WINDSOR: COULD I FINISH MY FEW OBJECTIONS?
22 THE COURT: YEAH, GO AHEAD.
23 MR. WINDSOR: I OBJECT TO THE EXPERT WITNESS. I'D
24 LIKE TO HAVE HIS TESTIMONY STRICKEN. HE FILED NO AFFIDAVIT IN
25 THIS CASE. I HAD NO OPPORTUNITY TO DEPOSE HIM. HE STOOD UP

P.74:

1 HERE AND GAVE ANSWERS TO QUESTIONS. HE WASN'T BEING HONEST.
2 HE DOESN'T HAVE ANY IDEA WHAT I THINK OR WHAT MY

3 MOTIVATIONS ARE. HE SPENT VERY LITTLE TIME -- HE'S ONLY BEEN
4 HIRED FOR A FEW DAYS. HADN'T REVIEWED THE MOTIONS TO EVEN BE
5 ABLE TO RENDER AN OPINION ON THE VALIDITY OF THEM OR THE
6 VALIDITY OF THEIR RESPONSES. ALL HE BASICALLY SAID WAS ALL
7 RIGHT, THE AMOUNT OF MONEY IS REALISTIC PER HOUR. SO I OBJECT
8 TO HIM.
9 I WAS GIVEN IMPROPER NOTICE. I WASN'T GIVEN THE
10 PROPER ABILITY TO PREPARE A RESPONSE. YOU LIMITED MY ABILITY
11 TO FILE THINGS WITH RARE EXCEPTIONS. THE ORDER PROVIDES NO
12 INDICATION WHATSOEVER OF WHAT BAD FAITH IS, MEANS. THERE IS NO
13 TESTIMONY, THE CASE HAS BEEN CLOSED, THERE IS ABSOLUTELY NO
14 TESTIMONY BY THE PLAINTIFFS AS TO BAD FAITH.
15 THERE HAS NOT BEEN A SINGLE SOLITARY SWORN AFFIDAVIT
16 FILED BY THE PLAINTIFFS, OTHER THAN A COUPLE BY MR. ANDERSON
17 AND MR. BROWN AS TO LEGAL ISSUES, AS TO ANY FACTS. THEY HAVE
18 NOT DISPUTED A THING THAT I HAVE SAID FOR THE LAST 18 MONTHS.
19 NOW DOESN'T THAT MAKE YOU WONDER JUST A LITTLE BIT?
20 BUT WE DON'T HAVE A -- I HAVE NOT BEEN TOLD IN ADVANCE SO THAT

21 I CAN HAVE AN OPPORTUNITY TO PREPARE WHAT BAD FAITH IS.
22 AND, YOUR HONOR, CONTRARY TO YOUR THINKING ON BOTH
23 PAGES 11 AND 15 OF YOUR ORDER THAT SET UP THIS HEARING TODAY,
24 YOU INCLUDE 13-6-11 AS ONE OF THE GROUNDS TO BE DISCUSSED
25 HERE. IT'S ALSO A PORTION OF THE MOTION THAT MR. ANDERSON

P.75:

1 FILED.
2 SO I MAKE ALL OF THOSE OBJECTIONS. I WOULD ASK THAT
3 WE HAVE A CONTINUANCE, THAT I BE GIVEN A PROPER OPPORTUNITY TO
4 HANDLE THINGS. IF YOU DENY ALL THAT, I WILL GO INTO AN
5 EXPLANATION OF WHY YOU'RE WRONG AND WILL PRESENT MY EVIDENCE
6 AND DO THE BEST THAT I CAN.
7 I WOULD ASK, YOU KNOW, BACK TO THE SUBPOENA ISSUE,
8 THERE ARE PEOPLE THAT I CAN'T GET TO GIVE ME AN AFFIDAVIT, BUT
9 I COULD SUBPOENA THEM, AND THEY WOULD HAVE TO COME.
10 SPECIFICALLY I'M THINKING OF MR. --
11 THE COURT: LET ME JUST STOP YOU RIGHT THERE BEFORE
12 WE GO ON TO THAT. I'M GOING TO OVERRULE YOUR OBJECTIONS JUST

13 TO CLEAN UP THE RECORD, AND NOW REGARDING THE SUBPOENAS, I
14 DON'T REALLY SEE -- YOU MENTIONED THE PEOPLE FROM MAID OF THE
15 MIST. THEY DON'T HAVE ANYTHING -- THE ONLY THING I CAN THINK
16 OF THEY MIGHT SAY IF THEY WERE CALLED TO THE WITNESS STAND IS
17 THAT IT'S BEEN AN EXTREME AGGRAVATION TO HAVE YOU CONTINUE TO
18 FILE THINGS IN THIS CASE.
19 THEY MIGHT SAY THAT, BUT AS FAR AS WHAT INFORMATION
20 YOU COULD GET FROM THEM, I CAN'T SEE THAT THEY WOULD HAVE ANY
21 INFORMATION THAT WOULD HELP YOU IN THIS HEARING.
22 MR. WINDSOR: WELL, YOUR HONOR, FOR STARTERS IF WE
23 GET MR. GLYNN UP HERE ON THE WITNESS STAND AND YOU ALLOW ME TO
24 ASK HIM WHETHER THAT VERIFIED PETITION THAT HE SIGNED WAS TRUE
25 AND CORRECT WHEN HE SIGNED IT, IS IT TRUE AND CORRECT TODAY,

P.76:

1 HE'S GOING TO HAVE TO DO ONE OF TWO THINGS. HE'S EITHER GOING
2 TO HAVE TO LIE AGAIN OR HE'S GOING TO HAVE TO PLEAD THE FIFTH.
3 THE COURT: OKAY. THE VORACITY OF THE ORIGINAL

4 COMPLAINT IS NOT BEFORE ME TODAY. SO I WOULD NOT ALLOW THAT.

5 WHAT WE'RE TALKING ABOUT NOW IS DOES THE EVIDENCE

6 SHOW THAT YOU HAVE, AND I'M QUOTING FROM THE STATUTE,

7 MULTIPLIED THE PROCEEDINGS IN THIS CASE UNREASONABLY AND

8 VEXATIOUSLY, AND DOES THE EVIDENCE SHOW THAT YOU ACTED WITH

9 MALICE TOWARD THE PLAINTIFFS IN THIS CASE IN CONTINUING TO FILE

10 FRIVOLOUS MOTIONS LONG AFTER THE CASE WAS OVER INTENDING TO

11 AGGRAVATE AND HARASS THE PLAINTIFFS.

12 AND THEN IF THE ANSWERS ARE YES TO THOSE QUESTIONS,

13 HAVE THEY ASKED FOR A PROFFER OF REASONABLE AMOUNT OF

14 ATTORNEY'S FEES AND EXPENSES. THAT'S WHAT WE'RE TALKING ABOUT.

15 MR. WINDSOR: OKAY. AND YOU SAID YOU WANTED TO KNOW

16 WHAT I WANT YOU TO CONSIDER. WHAT I WANT YOU TO CONSIDER IS

17 THAT THEY HAVE LIED HUNDREDS AND HUNDREDS OF TIMES, AND, YOUR

18 HONOR, THAT'S JUST NOT ME SITTING HERE SAYING THAT.

19 I HAVE PROVEN IT WITH THEIR OWN TESTIMONY, AND YOU

20 APPARENTLY HAVEN'T LOOKED AT IT. HOW IN THE WORLD SOMEBODY

21 COULD SIT HERE AND BE IN A POSITION THAT I'M IN WHEN, YES, I
22 FILED A GREAT BIG MASS OF DOCUMENTS. I PROVED ALL THE LIES
23 WITH CITATIONS TO THE RECORD, I MEAN YOU TALK ABOUT A PROJECT,
24 AND ALL THE DOCUMENTS SO THAT EVERYTHING WOULD BE BEFORE THE
25 COURT.

P.77:

10 THE COURT: -- SO AS TO CAUSE THEM UNDUE EXPENSE AND
11 TROUBLE. IT'S YOU THAT I'M LOOKING AT. IT'S NOT ALL THESE
12 OTHER PEOPLE.
13 MR. WINDSOR: IN MY CASE ABSOLUTELY NOT, BUT IN THE
14 CASE OF A SUBPOENA, I COULD SUBPOENA MR. PENLAND AND MR. RALEY
15 AND THEY WOULD HAVE INFORMATION RELATIVE TO MY HONESTY, MY
16 SINCERITY --
17 THE COURT: BUT THEY WOULDN'T HAVE ANY INFORMATION
18 ABOUT THESE POST-JUDGMENT MOTIONS THAT YOU HAVE FILED BEGINNING
19 WITH THE -- WE'RE REALLY NOT TALKING ABOUT THE 60(B) MOTION
20 TODAY. LET'S GO AFTER THE 60(B) MOTION, ALL THESE OTHER
21 MOTIONS YOU'VE FILED, THEY WOULDN'T HAVE ANYTHING TO SAY ABOUT

22 THAT.
23 MR. WINDSOR: WELL, YOUR HONOR --
24 THE COURT: YOU'RE THE ONLY PERSON THAT HAS THE
25 KNOWLEDGE ABOUT WHY YOU DID THAT, AND I'M LOOKING FOR SOME

P.78:

1 EXPLANATION FROM YOU.
2 MR. WINDSOR: YOU DON'T THINK IT'S RELEVANT FOR MR.
3 PENLAND AND MR. RALEY TO COME UP HERE AND TESTIFY THAT THEY
4 HAVE NEVER KNOWN ME TO FILE ANYTHING FALSE?
5 THE COURT: NO, I DON'T. I DON'T. I WANT TO HEAR
6 FROM YOUR MOUTH WHY YOU DID THE THINGS THAT YOU DID IN THIS
7 CASE AFTER THE 60(B) MOTION. THAT'S WHAT WE ARE FOCUSING ON
8 TODAY.
9 MR. WINDSOR: ALL RIGHT. I'D LIKE JUST TO SAY I
10 OBJECT. I WOULD LIKE TO SUBPOENA THEM --
11 THE COURT: I UNDERSTAND YOU OBJECT, BUT ANSWER MY
12 QUESTION.
13 MR. WINDSOR: I WILL. COULD I ASK YOU ONE QUESTION
14 THAT WASN'T RESOLVED BEFORE WE GOT OFF ON A DIFFERENT SUBJECT?
15 THE COURT: ALL RIGHT.

16 MR. WINDSOR: COULD YOU CITE FOR ME CASES THAT SAY
17 THAT MY EFFORTS HAVE BEEN IMPROPER? BECAUSE I HAVEN'T SEEN
18 ANYTHING AND I DIDN'T SEE ANYTHING IN YOUR ORDERS.
19 THE COURT: THERE ARE A LOT OF CASES DISCUSSING THE
20 FINALITY OF JUDGMENTS, AND ANY LAWYER THAT YOU WERE TO CONSULT
21 WOULD TELL YOU THAT WHAT YOU HAVE BEEN DOING HAS BEEN TOTALLY
22 OFF THE WALL. IT'S SO FAR OFF THE CHART THERE'S NO WAY I CAN
23 ADEQUATELY DESCRIBE IT TO YOU.
24 NO, THERE IS NOT A CASE THAT WOULD HAVE FACTS SIMILAR
25 TO THIS CASE THAT WOULD ADJUDICATE THAT MATTER.

P.79:

1 MR. WINDSOR: COULD YOU DIRECT ME IF THERE IS SOME
2 KEY WORDS I CAN ENTER INTO VERSUSLAW?
3 THE COURT: NO, I'M NOT GOING TO GET INTO THAT WITH
4 YOU. YOU CAN GET A LAWYER, I'M ABSOLUTELY POSITIVE YOU CAN,
5 WHO WILL DISCUSS THE FACTS OF THIS CASE WITH YOU. YOU DON'T
6 HAVE TO MENTION MY NAME; ALTHOUGH, IT WOULDN'T MAKE ANY

7 DIFFERENCE IF YOU'RE NOT GOING TO SUE ME. THEY DON'T CARE
8 ABOUT THAT.
9 IF YOU TALK WITH ANY GOOD LAWYER ABOUT WHAT HAS GONE
10 ON IN THIS CASE, HE OR SHE WILL TELL THAT WHAT YOU HAVE DONE IS
11 JUST TOTALLY OFF THE CHART. THERE IS NO QUESTION ABOUT IT.

P.89:

2 THE COURT: LET ME INTERRUPT YOU HERE. I'M GOING TO
3 GIVE YOU TEN MINUTES TO FINISH YOUR REMARKS, AND I'M NOT GOING
4 TO INTERRUPT YOU. YOU CAN COVER WHATEVER YOU WANT TO, BUT WHAT
5 YOU ARE DOING IS NOW YOU'RE NOT RESPONDING TO MY QUESTIONS AND
6 YOU'RE REALLY GETTING NOWHERE.
7 MR. WINDSOR: I WILL DO MY BEST. I CAN'T FINISH IN
8 TEN MINUTES --
9 THE COURT: YOU WILL FINISH IN TEN MINUTES.
10 MR. WINDSOR: -- YOU WILL CUT ME OFF AND I'LL
11 OBJECT. YOU HAVE UNDER SEAL TWO DOCUMENTS THAT ARE PUBLIC.

P.95:

11 THE COURT: LOOKS LIKE YOUR TIME IS UP.

12 MR. WINDSOR: I HAVE WITNESSES TO CALL. I HAVE TONS
13 OF DOCUMENTS THAT I HAVE PRODUCED THAT I NEED TO PRESENT, YOUR
14 HONOR, SO I OBJECT TO YOU DEPRIVING ME OF THE ABILITY TO DO
15 THAT. ALSO WE HAVEN'T DISCUSSED THE LAW, AND THE LAW IS --
16 THE COURT: WELL, WE HAVE TO THE EXTENT WE'RE GOING
17 TO. YOU CAN STEP DOWN.
18 OKAY. I THINK THAT OUGHT TO DO IT ON THE EVIDENCE
19 FOR TODAY. I THINK WE'VE EXPLORED WHAT NEEDS TO BE EXPLORED.
20 I HAVE HEARD THE EVIDENCE, AND I MAKE THE FOLLOWING FINDINGS OF
21 FACT AND CONCLUSIONS OF LAW:
22 THE COURT SPECIFICALLY DETERMINES THAT MR. WINDSOR
23 HAS MULTIPLIED THE PROCEEDINGS IN THIS CASE. AFTER THE -- WELL
24 FROM MAY 22ND, 2009 FORWARD, PROBABLY BACK BEFORE THAT BUT
25 WE'LL JUST STICK WITH THAT TIME, HE'S MULTIPLIED THE

P.100:

1 AGAINST MR. WINDSOR, AND IF YOU LIKE I CAN GO AHEAD AND ENTER A
2 JUDGMENT ON THE 192 AND DO THE OTHER ONE SEPARATELY OR HOWEVER
3 YOU WANT TO DO IT.

4 MR. ANDERSON: IF WE COULD GO AHEAD ON THE 192.

5 THE COURT: OKAY. I WILL DO THAT. I THINK THAT IS

6 EVERYTHING FOR TODAY.

7 NOW, LET ME JUST SPEAK TO YOU, MR. WINDSOR, BRIEFLY

8 ABOUT THE HEARING THAT IS COMING UP NEXT FRIDAY. I HAVE SAID

9 THIS TO YOU IN A WRITTEN ORDER AND I WANT TO REITERATE IT.

10 THIS CONTEMPT HEARING IS A VERY SERIOUS MATTER AND YOU NEED A

11 LAWYER.

12 YOU WILL NOT HAVE ANY DIFFICULTY FINDING A LAWYER TO

13 REPRESENT YOU, AND I WOULD RECOMMEND THAT RYAN WINDSOR HAVE A

14 LAWYER AND THAT THE TWO ALCATRAZ ENTITIES HAVE A LAWYER.

15 IT IS EVEN MORE APPARENT TO ME AFTER LISTENING TO

16 YOUR TESTIMONY TODAY THAT NOTHING THAT I HAVE SAID TO YOU HAS

17 MADE A DENT, AND I AM CONCERNED, AS I SAID, PRIMARILY ABOUT

18 THESE LITIGANTS WHO ARE HERE WHO ARE CONTINUING TO SUFFER WITH

19 YOUR CONSTANT BARRAGE OF MOTIONS, BUT I AM ALSO CONCERNED ABOUT

20 THE LACK OF RESPECT THAT YOU HAVE FOR THE ORDERS OF THIS COURT

21 AND THE JUDGMENTS OF THE COURT.

22 I DO NOT THINK THERE IS ANYTHING I CAN SAY TO YOU
23 THAT IS GOING TO CHANGE YOUR MIND ABOUT WHAT YOUR COURSE OF
24 ACTION WILL BE, AND I'M NOT EVEN SURE THAT THE ATTORNEY'S FEES
25 AND EXPENSES THAT I'M AWARDING IS GOING TO MAKE A DIFFERENCE

P.101:

1 EITHER.
2 THAT BEING THE CASE I THINK YOU NEED TO VERY
3 SERIOUSLY CONSIDER THAT THE COURT DOES HAVE THE POWER TO PUT
4 YOU IN JAIL IN ORDER TO DETER YOU FROM CONTINUING THIS COURSE
5 OF ACTION, AND I THINK THAT'S SOMETHING YOU SHOULD TAKE VERY
6 SERIOUSLY AND GET A LAWYER.
7 MR. WINDSOR: WELL, YOUR HONOR, IF YOU'RE CONTINUING
8 TO THREATEN ME WITH CRIMINAL, YOU HAVE TO FOLLOW THE FEDERAL
9 RULES OF CRIMINAL PROCEDURE.
10 THE COURT: LET ME SAY THIS, MR. WINDSOR. I WILL
11 FOLLOW THE RULES. THEY MAY NOT BE THE RULES THAT YOU THINK I
12 SHOULD FOLLOW. I'M TELLING YOU RIGHT NOW YOU ARE AT RISK FOR
13 BEING PUT IN JAIL, AND I'M ALSO TELLING YOU THAT THAT IS NOT
14 NECESSARILY A CRIMINAL PENALTY.

15 THE COURT DOES HAVE THE POWER TO PUT SOMEBODY IN JAIL

16 TO GET THEM TO CHANGE THEIR CONDUCT, TO DETER THEM FROM FUTURE

17 ACTIONS SIMILAR TO PAST ACTIONS, AND IF YOU WILL CONSULT WITH A

18 LAWYER, YOU WILL FIND OUT THAT I'M RIGHT.

19 ALL RIGHT. THANK YOU, LADIES AND GENTLEMEN.

20 (PROCEEDINGS CONCLUDED.)

800. **BIAS #659** -- The only case cited by Judge Evans in the entire April 9, 2010 Sanctions Order [MIST-1_Doc.752] does not support the Order. It dealt with mandatory attorney fee awards under the Fair Labor Standards Act. ***Kreager v. Solomon & Flanagan, P.A.***, 775 F.2d 1541 (11th Cir. 11/15/1985) [MIST-1_Doc.752, p.2.] So, Judge Evans provided no legal authority for her award of sanctions. This proves bias.

801. **BIAS #660** -- Erroneous information was presented to Judge Evans by Mr. Carl Hugo Anderson at the April 8 hearing. Mr. Anderson has provided absolutely false information to Judge Evans as I have testified. Judge Evans ignored me. Judge Evans did nothing about the proof that I provided that Mr. Anderson gave false testimony. This proves bias.

802. **BIAS #661** -- Mr. Anderson's estimates of real estate values failed to note important facts. I am the unfortunate mortgage-holder on two homes purchased before the real estate market crashed. I

explained all of this, and Judge Evans ignored it. This proves bias.

803. **BIAS #663** -- Judge Evans erroneously claimed that I filed frivolous motions. There was no proof whatsoever. On every motion, I carefully researched statutes, rules, and case law. Judge Evans ignored this. This proves bias.

804. **BIAS #663** -- During the April 8, 2010 hearing, I moved for a continuance and stay, and Judge Evans gave no justification for ignoring the motion and denying all relief that I requested. (MIST-1_Doc.768.) Judge Evans ignored this. This proves bias.

805. **BIAS #664** – Prior to and during the April 8, 2010 hearing, I requested that I be given the opportunity to prepare a post-hearing brief, because I was unable "on the fly" in the courtroom to quote law and cases the way attorneys may be able to do. Judge Evans ignored this request. This violates procedures required with Inherent Powers, which is one of the legal justifications Judge Evans used for sanctions. This proves bias.

806. **BIAS #665** -- Judge Evans' bias has been pervasive, and if the judges of The Supreme Court had been listening to the hearing on April 8 (without Judge Evans knowing they were present), they would know that she is as biased and dishonest as a judge could possibly be. The Constitution allegedly guarantees an unbiased judge and a fair trial, but Judge Evans promises a corrupt judge and a Kangaroo Court.

807. **BIAS #666** -- I have been actively trying to get Judge Evans indicted and convicted for a variety of crimes. I have written every member of the Senate and House Judiciary Committees trying to get Judge Evans impeached. I have two lawsuits pending against Judge Evans. I have accused Judge Evans of hundreds of counts of perjury, obstruction of justice, fraud upon the courts, and more. I have contacted the DA, FBI, U.S. Attorney, and the Department of Justice attempting to get them to investigate and indict her. I have contacted 60 Minutes, 20/20, Dateline, The New York Times, The Washington Post, and others attempting to get them to expose the corruption of Judge Evans. Judge Evans has said vicious, malicious things about me, and I have branded her a corrupt, lying crook. No one could be unbiased under these circumstances. Judge Evans knows she is terminally biased, and she loves abusing her tyrannical power.

808. **BIAS #667** -- In her April 9, 2010 Order, Judge Evans claims she made conclusions of law at the end of the April 8 hearing. She made no conclusions of law. She never allowed the law to be discussed at the hearing, and she did not discuss the law. The transcript proves this. [MIST-1_Doc.768.] This demonstrates bias.

809. **BIAS #668** -- Judge Evans did announce so-called "findings of fact" at the close of the April 8, 2010 hearing, and she simply invented "things" that were not presented at the hearing. [MIST-1_Doc.768.] This demonstrates bias.

810. **BIAS #669** -- Judge Evans tried to claim that my motions after May 22, 2009 were totally frivolous. That is utterly ridiculous. Any honest judge can look at the motions and determine that there was nothing frivolous. Requests for conferences that are required by the Local Rules are not frivolous. Requests for hearings that are required by the Rules are not frivolous. Requests to strike material filed by the Plaintiffs in violation of the Rules and without factual support are not frivolous. Motions to recuse Judge Evans are as far from frivolous as anything could be. Motions to reopen the case that were documented with law, case law, and citations to the record cannot be considered frivolous. Motions to promptly withdraw or amend material filed in error cannot be considered frivolous. Responses to motions filed by the Plaintiffs that were required by law were not frivolous. A motion to compel production or lift the seal of the documents that will prove fraud and fraud upon the court cannot be considered frivolous. A motion seeking Constitutional rights is not frivolous. Motions requesting discovery are not frivolous. A motion for an extension of time was not frivolous. A motion requesting leave to file was not frivolous. Two motions to modify the injunction of August 7, 2007 due to new developments were not frivolous. A motion for Professional Misconduct authorized by the Local Rules was not at all frivolous. Motions for sanctions were not the slightest frivolous. A motion for a stay could not possibly be considered frivolous. Motions requesting legal and Constitutional rights cannot possibly be frivolous. Judge Evans is merely a corrupt judge who will say whatever she needs to

say to meet her improper needs. This demonstrates uncontrollable bias.

811. **BIAS #670** -- Judge Evans claims I have "threatened to disrupt the finality of the Consent Final Order and Judgment and other orders entered in this case...." as if there was something that I did wrong. The only finality with the Consent Final Order and Judgment was that I would not appeal that order, and I did not. I gave no releases whatsoever and agreed to nothing else but to pay money and honor the August 7, 2007 injunction, which I have done. I provided Judge Evans with 8,448 cases citations that indicate that Rule 60 may be used to reopen cases such as MIST-1. Judge Evans has never cited a single case to show otherwise. This demonstrates bias.

812. **BIAS #671** -- Judge Evans makes the outrageous "finding of fact" that I "possessed, during the case's entire post-judgment phase, and currently possesses the financial means to secure counsel to represent him." There was no such evidence presented. The evidence presented was that no attorney would take the case for fear of reprisals from Judge Evans. I said this on the witness stand on April 8, 2010, and I have put this in numerous affidavits. I also testified that I cannot afford an attorney. Judge Evans has demonstrated her bias against pro se parties again and again. This demonstrates bias.

813. **BIAS #672** -- Judge Evans claim that my post-judgment motions are legally dubious, vexatious, and presented with an intent to harass is

completely, totally false and without factual support. The only testimony was mine. Every motion was carefully researched and was absolutely proper. I am not the least bit vexatious. I am intent on getting the orders and judgment in MIST-1 set aside; get my million and a half dollars back; have Judge Evans indicted, convicted, and impeached; get the Plaintiffs found guilty of perjury and other criminal violations; and get the Plaintiffs' attorneys found guilty of subornation of perjury and other criminal and professional violations. I have stated this repeatedly over the last two years. I have no desire whatsoever to harass anyone.

814. **BIAS #673** -- Judge Evans claims "Windsor voluntarily chose to continue representing himself in this closed case, conscious that no attorney retained on his behalf would pursue his desired ends." The evidence before the court proves this is false, and that evidence is uncontroverted.

815. **BIAS #674** -- Judge Evans' claim that the amount of attorneys' fees was reasonable is outrageous. She tries to claim what the Plaintiffs filed was proper and what I filed was not. This is absolutely false. Review everything filed by the Plaintiffs in 2009 and 2010, and you will see that the Plaintiffs never filed a single affidavit and thus had no facts whatsoever before the court. [MIST-1 Docket.] Plaintiffs' attorneys made one false statement after another in their filings. They did not have valid law or case law to support any of their positions. On the other hand, everything that I filed was supported by sworn affidavits under penalty of perjury with a notary. I cited detailed law and case

law to support everything. Motions that I filed were not the least bit frivolous. This proves bias.

816. **BIAS #675** -- There are a whole host of reasons why no attorneys' fees whatsoever are proper. Just one factor is the 213 days that Judge Evans said nothing and did nothing while Motions, Responses, and Replies piled up. All she had to do was act. She ignored 8 sincere requests for a conference and 21 requests for a hearing. All she had to do was act. Judge Evans should have to pay all of our attorneys' fees and costs for her malfeasance. How dare this woman claim I am responsible for attorneys' fees over the period of time that she totally neglected her duties. This proves bias.

817. **BIAS #676** -- Judge Evans violated just about every rule in the book in regard to the April 8, 2010 Hearing. She immediately issued an order so the Plaintiffs would be in a position to take action against my assets. This proves bias, and it violates Georgia law.

818. **BIAS #677** -- Courts are supposed to make rulings based upon legal evidence and to clearly state factual and legal findings in orders. Judge Evans didn't. Judge Evans invented facts to suit her criminal needs, just as she has done throughout MIST-1. This proves bias.

819. **BIAS #678** -- The charge of 28 U.S.C. § 1927 was frivolous. 28 U.S.C. § 1927 does not pertain to non-attorneys. The statute and case law

are clear, but Judge Evans granted sanctions against me pursuant to 28 U.S.C. § 1927. This proves bias.

820. **BIAS #679** -- The Eleventh Circuit says that motions for sanctions are not allowed when filed post-judgment or after motions have been denied. Judge Evans rejected my motions and Plaintiffs' motions on December 22, 2009 and did not award any of the requested attorneys' fees. Then she allowed the Plaintiffs to file a motion 15 days later seeking attorneys' fees yet again. The Plaintiffs never filed a motion for reconsideration. And then on April 8, 2010, she awarded attorneys' fees on all motions from May 22, 2009 to April 8, 2010. This demonstrates bias.

821. **BIAS #680** -- The Eleventh Circuit affirms a trial court's award of sanctions under its inherent powers where the offending party received repeated timely warnings that it faced sanctions if it continued with its conduct. I never received any warnings. Judge Evans said nothing for 213 days, and she issued no warnings in the MEGA ORDER. This demonstrates bias.

822. **BIAS #681** -- Sanctions are not appropriate with a pro se party. Judge Evans could not expect anything more of a pro se party than what I did in this matter. 28 U.S.C. § 1654 gives every American the right to represent themselves in court. 28 U.S.C. § 1654 provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein." Judge Evans

is biased against pro se parties. She made this especially clear with her April 8, 2010 Order.

823. **BIAS #682** -- The Eleventh Circuit has stated that sanctions must not result in economic castigation or bankruptcy of the defendant. On April 14, 2010, I sent a letter to Judge Evans stating that bankruptcy was a possibility for me and noting that Judge Evans had made no factual inquiry into my ability to pay. Judge Evans ignored it. This demonstrates bias.

824. **BIAS #683** -- A hearing was held on the Order to Show Cause beginning on April 16, 2010. As with the April 8 hearing, this hearing was a charade. This proves bias.

825. **BIAS #684** -- At the Hearing on the Order to Show Cause, Mr. Carl Hugo Anderson claimed the contracts filed under seal were not relevant. He told Judge Evans that the contracts between the Plaintiffs and the Niagara Parks Commission and New York State did not contain terms that limited the retail price of tickets charged to passengers. This was a false representation that Mr. Anderson knew was false. I informed Judge Evans of the pages on the contracts where this was proven false. Judge Evans chose to accept the word of Mr. Anderson over the documentary proof. This proves bias.

826. **BIAS #685** -- Mr. Anderson has made hundreds of false statements to the courts in 2009 and 2010, not to mention the many hundreds from 2005 through 2008. In several filings, Mr. Anderson

stated: "Apparently at least in his own mind, he [Windsor] could not be the same person who testified that he sold consumers worthless vouchers as part of his campaign to injure Maid." This is false. Mr. Anderson knows this is false. This statement was made to deceive the courts. This is perjury. There is no factual basis whatsoever for this statement. Ask Mr. Anderson to produce any proof of this. He will not be able to. The Plaintiffs and their attorneys have made up claims again and again and again and again. They are the most dishonest people that I have ever encountered. Judge Evans allowed this. This demonstrates bias.

827. **BIAS #686** -- Mr. Anderson stood in front of Judge Evans on April 16, 2010 and tried to make her think that Alcatraz has been a party to MIST-1 in 2009 and 2010. Prior to the Motion for Order to Show Cause, Mr. Anderson NEVER signed a certificate of service in the last year or so showing either Alcatraz entity as a recipient. The Certificates of Service prove it. Judge Evans chose to believe Mr. Anderson. This proves bias.

828. **BIAS #687** -- The District Court Clerk never had either of the Alcatraz entities on its distribution lists for orders in 2009 or 2010. Yet Mr. Anderson stood in front of Judge Evans and tried to make her think that Alcatraz had been receiving orders from the District Court Clerk. Judge Evans chose to believe Mr. Anderson. This proves bias.

829. **BIAS #688** -- In the Memorandum of Law in Support of the Motion to Show Cause

("MLMSC"), Mr. Anderson made many false claims, and I provided evidence that they were false. Judge Evans chose to ignore my evidence. This proves bias.

830. **BIAS #689** -- Plaintiffs failed to support by affidavit the statements made in ¶¶18, 20, 21, 23, 25, 26, 27, 29, 31, 32, 34, 36, 37, 39, 41, 42, 50, 51, 52 of the Motion to Show Cause. I moved that these paragraphs be stricken. Nowhere under oath did the Plaintiffs state that my claims are false. Judge Evans ignored this. This proves bias.

831. **BIAS #690** -- Plaintiffs' Motion for Permanent Injunction Restricting Future Filings by William M. Windsor was based upon significant false statements by Plaintiffs' Attorneys. [MIST-1 Doc.458.] These were detailed in the Motion for Sanctions filed on August 4, 2009. [MIST-1_Doc.486.] I proved that these statements of alleged fact were false in my Response. Judge Evans ignored this. This proves bias.

832. BIAS #691 – I completely defeated the Plaintiffs' Motion during the hearing on the order to show cause. Judge Evans ignored all of this because she had one and only one goal in the hearing, and that was to stick it to me. Any honest judge will review the Transcript and rule in my favor and find the Plaintiffs liable for sanctions under FRCP Rule 11. This proves bias.

833. **BIAS #692** -- Ryan Windsor, Alcatraz, and I incurred significant expense as the result of this FRIVOLOUS MOTION for contempt. It cost

Ryan and Alcatraz approximately $40,000 in legal fees and other costs. I have incurred expense of approximately $75,000 that can be documented for the court in an in camera inspection. Judge Evans ignored this. This proves bias.

834. **BIAS #693** -- On April 26, 2010, this Court issued an order declaring me in contempt of court. The Contempt Order requires that I dismiss Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Hawkins & Parnell, and Carl Hugo Anderson as Defendants in Civil Action No. 1:10-CV-00197 (RJL) and Appeal No. 10-5071. I immediately sent motions making this request by overnight courier to the courts in Washington, DC. I did all that I could do as I was powerless to act for the United States District Court or the United States Court of Appeals. I moved Judge Evans to issue an order declaring that I had complied with the Contempt Order. She refused. This demonstrates bias for the Plaintiffs and against me.

835. **BIAS #694** -- Judge Evans sent marshals to my home prior to the contempt hearing on April 16, 2010. They spoke with my next-door neighbor, Lucy Heagy, and asked her what she knew about me. Lucy replied that she didn't know me that well. One of the marshals said: "Well, I can tell you one thing about him. He's wealthy." It is clear that Judge Evans wants to ignore all of the facts presented and do whatever she wants. I am not wealthy. I have provided the proof. And it was totally improper for Judge Evans to tell federal marshals that and have them telling my neighbors such things. This demonstrates bias.

836. **BIAS #695** -- I believe Judge Evans may also be responsible for my wife being stopped for no valid reason by the police. A marshal spoke with my wife on April 16, 2010 when she was at the courthouse to testify for our son, and the marshal said they had done a stakeout on our two homes. The marshal also told her that I was believed to be mentally unbalanced. This demonstrates bias.

837. **BIAS #696** -- I presented a Motion for Due Process to Judge Evans on April 23, 2010, and she refused to let it be filed. Judge Evans is corrupt, and she has a complete, total lack of impartiality, and she has abused the process to punish me and deny my Constitutional rights to due process. The transcript of the Hearing on Order to Show Cause demonstrates repeatedly her bias against pro se parties – extra-judicial bias!

838. **BIAS #697** -- There was not a shred of proof or legal basis for Judge Evans to find me in contempt, but she did. This proves bias.

839. **BIAS #698** -- Judge Evans had no jurisdiction to conduct the hearings and issue the orders that she has issued since December 31, 2009 when I filed an appeal. I presented over 300 cases to Judge Evans showing this, but she claimed she had "found a case" that supported her "decision" to deny the Motion for Stay. [MIST-1_Doc.785]. Judge Evans cited no case and claimed FRCP Rule 62 supported her decision, but it has no such authority.

840. **BIAS #699** -- If the judges of this Court had been a fly on the wall throughout MIST-1, they would be shocked and appalled at what Judge Evans did. At the conclusion of the April 23, 2010 hearing, Judge Evans stared at me with an evil eye and said "You are playing with fire." [MIST-1 Doc. 798, P.109:20-21] Judge Evans has no legal or factual basis for her rulings. She knows that she is committing fraud upon the courts with every order that she issues. She enjoys it. If this Court doesn't act, Judge Evans will get away with her abuse yet again; I may file bankruptcy; and I always run the risk with these criminal judges that I will be sent to jail for doing absolutely nothing wrong. What an indictment of "justice for all" this would be.

841. **BIAS #700** -- Judge Evans has "stolen" my life savings, and may be sending me to the bankruptcy court by committing intentional torts.

842. **BIAS #701** -- At the Hearing on the Order to Show Cause, Mr. Carl Hugo Anderson told Judge Evans that the Lanham Act had not been an issue in this matter. This was false. Plaintiffs' Updated Brief in Support of their Motion for TRO [MIST-1_Doc.6]. Page 6 states "Defendants have violated the Lanham Act...." An excerpt from the Transcript of the Preliminary Injunction Hearing on April 11 and 12, 2006, Pages 47-51 and 156-166 address the Lanham Act claim. [MIST-1 Doc. 35, 36, 37.] Judge Evans accepted Mr. Anderson's claim rather than the facts. This proves bias.

843. **BIAS #702** -- The Plaintiffs produced absolutely no evidence that I willfully violated the

injunction. Mr. Anderson's affidavit doesn't even make such a claim, but he wouldn't know anyway. There is no way the Plaintiffs can prove that I did anything willfully because I didn't. They had the burden of proof, and they failed, and they knew they had no proof. They had sworn proof to the contrary. The Plaintiffs knew they could not meet the most basic requirement for a finding of contempt when they filed the Motion. It was confirmed to them in writing on March 22, 2010, and it was confirmed under oath in court on April 16 and 19, 2010, but they moved forward frivolously at great expense of time and money to Ryan Windsor, Alcatraz, and me. The Plaintiffs could not prove anything, but Judge Evans allowed it. This proves bias.

844. **BIAS #703** -- I have massive proof of the research that I did before filing my DC Action and appeals, and this shows nothing was willfull. I am in the enviable position of being able to show what I knew and when. On December 28, 2009, I knew nothing about the nucleus of operative fact or res judicata. This is seen on what I wrote for a Petition for Writ of Certiorari. On January 6, 2010, I filed legal documents showing that I had learned that the parties and causes of action have to be identical. As they are not, the DC Action and the appellate actions are not barred by the injunction. Judge Evans pretended this did not apply. This proves bias.

845. **BIAS #704** -- I do not violate the law intentionally (except for some speeding 7 miles over the limit on highways). I am not a lawbreaker. Judge Evans entered a TRO on March 30, 2006, a

Preliminary Injunction on May 12, 2006, a Permanent Injunction on August 7, 2007, an illegal injunction on December 22, 2009, and I have honored them all. I have filed nothing in MIST-1 since before December 22, 2009 as is clearly shown by the Docket. I studied the law and the case law and spoke with the Eleventh Circuit to determine what I could and could not do, and I did not violate anything. Judge Evans ignored this. This proves bias.

846. **BIAS #705** -- There are four elements required for res judicata, and two were absent in this situation. First, the parties are not identical. I submitted a spreadsheet showing the parties in each action, and it proves that the parties are totally different. Second, the causes of action are totally different. Judge Evans ignored this and claimed res judicata applied and found me in contempt. Judge Evans' actions were simply corrupt. This proves bias.

847. **BIAS #706** -- Sanctions issued by Judge Evans in the CONTEMPT ORDER were criminal. Judge Evans order a $5,000 fine payable to the Registry of the Court, and a fine payable to the Court is punitive. Punitive is criminal. Case law proves this to be the law. I was denied due process guaranteed under the Constitution and the Fifth and Fourteenth Amendments and the Due Process Clause. I specifically asked Judge Evans to provide the required due process rights, and she falsely claimed that she did. This proves bias.

848. **BIAS #707** -- The command that I must dismiss the Plaintiffs and their attorneys in the DC Action is an order that has devastating consequences to me. I need to withdraw these motions before it is too late. There is no adequate remedy at law. I believe dismissal of the Plaintiffs makes Rule 60(d) relief impossible. Dismissal of the Plaintiffs' attorneys likely makes fraud upon the courts impossible as the attorneys are officers of the court, which is required in actions for fraud upon the courts. Judge Evans forced me to do this under threat of jail, and this proves bias.

849. **BIAS #708** -- The December 22, 2009 Order prohibits me from filing legal actions. The filing of the Writ of Execution and recent false pleadings and false allegations are not the "nucleus of operative facts" and are not "res judicata," I requested an order stating that a lawsuit filed against the Plaintiffs and their attorneys will not be considered a violation of the December 22, 2009 Order. Judge Evans failed to do so. This proves bias.

850. **BIAS #709** -- Judge Evans made 126 false statements in the CONTEMPT ORDER. [MIST-1_Doc.794.] I know that Judge Evans made these false statements intentionally. She committed perjury intentionally so she could damage me. When you read the CONTEMPT ORDER and compare it to the Transcripts of the hearing, it is clear that she ignored all of the facts presented by me. She cited essentially no facts presented by the Plaintiffs, because they presented little or nothing. As to the law, it is clear that I so soundly defeated the claim

that I had violated the DECEMBER 22, 2009 INJUNCTION ORDER, as far as res judicata, that she was forced to make something up. So, she resurrected an extinct claim that issue preclusion is part of res judicata and tried to claim that it applied. My filing of the DC Lawsuit does not meet the elements required for issue preclusion. But, even more important, Judge Evans has tried to claim that "nucleus of operative facts" applies to "issue preclusion," but it does not. I searched 5 million cases at versuslaw.com to prove it. Judge Evans ignored all of this. This proves bias.

851. **BIAS #710** -- There was evidence that I was not allowed to present at the April 23, 2010 Contempt Hearing. [MIST-1_Doc.798.] I submitted my financial information to the Court with my MOTION FOR RECONSIDERATION. This was ignored. I stated that I could not pay the sanctions. I was denied the opportunity to present my documents as evidence. The information presented by Mr. Carl Hugo Anderson was false and/or erroneous. This proves bias.

852. **BIAS #711** -- Judge Evans has been without jurisdiction to consider the motions filed by the Plaintiffs since the December 31, 2009 Appeal. (***Shivers v. Hill***, 205 Fed.Appx. 788 (11th Cir. 11/14/2006); ***United States v. Ball***, 734 F.2d 965, 965 n.1 (4th Cir. 1984) (district court is without jurisdiction to consider motions submitted after the appeal was filed), vacated on other grounds, 470 U.S. 856, 84 L. Ed. 2d 740, 105 S. Ct. 1668 (1985). I provided overwhelming case law. Judge Evans ignored it and dredged up one inapplicable case that

she used to claim the law is contrary to the hundreds of cases that I presented. This proves bias.

853. **BIAS #712** -- While courts have the power to protect their jurisdiction [MIST-1_Doc.794--CONTEMPT ORDER, P.15], courts have a greater obligation to protect the Constitutional rights of all citizens. Meaningful access to the courts is a Constitutional right that has been illegally denied. My Constitutional rights to due process have been severely violated. This proves bias.

854. **BIAS #713** -- The cases cited by Judge Evans in the CONTEMPT ORDER (MIST-1_Doc.794:P.15-16), ***Procup v. Strickland*** and ***Martin-Trigona v. Shaw***, actually prove my points. Her attempt to position these cases otherwise proves bias.

855. **BIAS #714** -- Judge Evans wants to deny that res judicata applies in the instant case. (MIST-1_Doc.794--CONTEMPT ORDER, P.20 and 26.) This is completely and totally false and erroneous. She also claims that "Windsor's stated understanding of 'res judicata' is incorrect." (MIST-1_Doc.794--CONTEMPT ORDER, P.26.) The CONTEMPT ORDER has nothing to do with issue preclusion as Judge Evans duplicitously claims. I fully understand res judicata. I probably know far more about it than Judge Evans ever will.

856. **BIAS #715** -- Judge Evans is duplicitous. She employs contradictory doubleness of thought, speech, and action. She tries to mask her true intentions by deceptive words and actions. She

is deliberately deceptive by pretending one set of feelings and acting under the influence of another. There are 271 sentences (or citations) (291 less 20 miscellaneous headings, etc.) in the CONTEMPT ORDER. [MIST-1_Doc.794.] 126 of the 271 are false or incorrect. Many of the true "fact" statements are irrelevant as Judge Evans primarily created the findings of "fact" by ignoring the facts presented at the hearing. This proves bias.

857. **BIAS #716 -- CONTEMPT ORDER**

Sentence #1: "This closed civil suit comes before the Court on Plaintiffs' motions, filed February 19 and March 1, 2010 [MIST-1_Docs. 739 & 741], for an order finding Defendants in civil contempt for violating the undersigned's filing injunction entered December 22, 2009 [MIST-1_Doc. 723]. [Footnote 1.]" [MIST-1_Doc.794--CONTEMPT ORDER, P.1.] This is incorrect. Ryan Windsor was also named, and he is not a Defendant. This demonstrates bias.

858. **BIAS #717 -- CONTEMPT ORDER**

Sentence #2: "This Court's conclusions (pp. 39-41 below) finding William M. Windsor in contempt and modifying the December 22, 2009 order were orally announced from the bench on Friday, April 23, 2010. The instant Memorandum Opinion will set forth findings of fact and conclusions of law." [MIST-1_Doc.794--CONTEMPT ORDER, P.1- Footnote 1.] This is true that it was announced. It is false that I committed contempt, and the so-called "findings of fact" and "conclusions of law" are false. This order and the entire dealings over this alleged contempt provide excellent proof of the bias by Judge Evans.

859. **BIAS #718 -- CONTEMPT ORDER**

Sentence #3: "Because this case had been finally adjudicated in a Consent Final Order and Judgment entered December 9, 2008, and Defendant William M. Windsor ("Windsor") had persisted in filing large numbers of frivolous post-judgment motions, the December 22 filing injunction ordered Windsor not to file "any further motion, pleading, or other paper in Civil Action No. 1:06-CV-0714-0DE" (the "instant case") [MIST-1_Doc. 723 at 19]." [MIST-1_Doc.794--CONTEMPT ORDER, P.1.] This is false. There was no such evidence before the court. I did not file "large numbers of frivolous post-judgment motions." The discussion in the DECEMBER 22, 2009 ORDER of each of Windsor's motions does not indicate that any of the motions were frivolous. [MIST-1_Doc.723.] The DECEMBER 22, 2009 ORDER makes no such pronouncement. This demonstrates bias.

860. **BIAS #719 -- CONTEMPT ORDER**

Sentence #5: "After the December 22, 2009 order was entered, Windsor filed certain petitions for writs of mandamus in the United States Court of Appeals for the Eleventh Circuit and also filed a new lawsuit in the U.S. District Court for the District of Columbia [MIST-1_Doc. 739-22 to 739-26]." [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is true, but this sentence demonstrates the duplicity of Judge Evans. This sentence implies that there was something improper with filing petitions for writs of mandamus in the Court of Appeals. Note that the ORDER TO SHOW CAUSE (MIST-1_Doc.744, P.2) claims the filing of these petitions for writs of mandamus was a violation of the injunction. But, see CONTEMPT ORDER, P. 21 and 35 where Judge Evans states:

"[this court] has no power to enjoin filings in the Court of Appeals." This demonstrates bias.

861. **BIAS #720 -- CONTEMPT ORDER**

Sentence #6: "In the District of Columbia lawsuit, Windsor seeks to reopen this closed case and undo its resolution insofar as the Maid of the Mist entities are concerned." [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is false. There is no such evidence. The DC Action does not seek to "reopen" MIST-1. The Prayer for Relief in the DC Action seeks no such relief [DC Action Complaint, P.495.] This demonstrates bias.

862. **BIAS #721 -- CONTEMPT ORDER**

Sentence #7: "In addition, it contains claims for damages against both of the Maid of the Mist entities and a large number of other defendants (including the undersigned) for various acts allegedly wrongfully done or wrongfully not done in connection with this lawsuit or Windsor's nonjudicial complaints." [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is false. There is no such evidence. The request for damages in the DC Action Complaint makes no request for damages due to acts allegedly done wrong prior to July 28, 2009. This demonstrates bias.

863. **BIAS #722 -- CONTEMPT ORDER**

Sentence #9: "Briefs have been filed by both sides." [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is incorrect. There were actually five parties, and only two were allowed to file briefs. This demonstrates bias.

864. **BIAS #723 -- CONTEMPT ORDER**
Sentence #10: "An evidentiary hearing was held on April 16, 19 and 23, 2010. Windsor testified and made arguments in his own behalf." [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is incomplete. I was cut off and not allowed to present much of my evidence. This demonstrates bias.

865. **BIAS #724 -- CONTEMPT ORDER**
Sentence #11: "Having heard the evidence and arguments of the parties, the Court now makes the following findings of fact and conclusions of law. [Footnote 2.]" [MIST-1_Doc.794--CONTEMPT ORDER, P.2.] This is false. Judge Evans could not make either the findings of fact or the conclusions of law based upon what she heard. She is simply a corrupt criminal. This demonstrates bias.

866. **BIAS #1 -- CONTEMPT ORDER**
Sentence #12: "Once again the undersigned considers sua sponte whether to recuse herself from the instant case, and declines to do so." [MIST-1_Doc.794--CONTEMPT ORDER, P.2 - Footnote 2.] This is true, but totally unfair. Judge Evans does not have an ounce of impartiality in her body. She demonstrates her duplicity every time she refuses to recuse herself. She claims she can be impartial, but it is a lie. This demonstrates bias.

867. **BIAS #1 -- CONTEMPT ORDER**
Sentence #13: "The problem is that Windsor's endless campaign to reopen the case cannot be stopped if a succession of judges handle the case." [MIST-1_Doc.794--CONTEMPT ORDER, P.2 -

Footnote 2.] This is false. The problem is that if Judge Evans lets the case go, an honest judge may get her sent to prison and impeached. Judge Evans is accused of fraud upon the courts, so she has no business whatsoever presiding over this case since all of her decisions affect her personally. This demonstrates bias.

868. **BIAS #725 -- CONTEMPT ORDER**

Sentence #14: "Because of Windsor's very extensive filings, becoming familiar with the underlying case would require a significant investment of time by a new judge." [MIST-1_Doc.794--CONTEMPT ORDER, P.2 - Footnote 2.] This is false. The issue never addressed is fraud upon the courts. The underlying case does not matter unless fraud upon the courts is shown. If it is, then the case starts over, and a new judge can learn the true facts as it progresses. This demonstrates bias.

869. **BIAS #726 -- CONTEMPT ORDER**

Sentence #15: "This would cause delay and would increase Maid's costs." [MIST-1_Doc.794--CONTEMPT ORDER, P.2 - Footnote 2.] This is false. There is no need for any delay. This demonstrates bias.

870. **BIAS #727 -- CONTEMPT ORDER**

Sentence #16: "Also, it is predictable that any rulings unfavorable to Windsor from a new judge would result in a motion to recuse. Because the undersigned is confident that she can be fair to Windsor, and the record clearly establishes a history of repetitive, frivolous pro se filings, the undersigned declines to recuse herself." [MIST-1_Doc.794--

CONTEMPT ORDER, P.2-Footnote 2.] This is false. Judge Evans does not have an ounce of impartiality in her body. She demonstrates her duplicity every time she refuses to recuse herself. She pretends she can be impartial, but it is a lie. I never filed a thing that was frivolous. This demonstrates bias.

871. **BIAS #728 -- CONTEMPT ORDER**

Sentence #18: "William M. Windsor acted as an agent for Defendants Alcatraz Media, LLC and Alcatraz Media, Inc. in the events which led up to the underlying litigation in this case." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is false. This is irrelevant to the contempt issue. The events which led up to the underlying litigation began in the summer of 2004. I did not become involved until the Plaintiffs breached the contract with Alcatraz on or about July 28, 2005. From that point forward, the Plaintiffs refused to speak to me or anyone from Alcatraz. From on or about August 6, 2005 until the lawsuit was filed on August 29, 2005, I acted as an "agent" in attempting to get the Plaintiffs' attorneys to respond to us and deal with the breach of contract and slander. This demonstrates bias.

872. **BIAS #729 -- CONTEMPT ORDER**

Sentence #19: "The Alcatraz defendants were represented by counsel in the underlying litigation; Windsor elected to represent himself." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is incorrect. This is irrelevant to the contempt issue. The record in MIST-1 proves this is false. Docket 1 to Docket 51 show that G. Brian Raley represented me for approximately the first year that the lawsuit was pending, August 2005 to June 2006. Docket 291

to 360 show that James W. Penland represented me from October 2007 to April 2009. Judge Evans couldn't tell the truth if her life depended on it. She is a pathological liar. This demonstrates bias.

873. **BIAS #730 -- CONTEMPT ORDER Sentence #21:** "In the instant case, Alcatraz was selling vouchers via the Internet to members of the public who wanted tickets for Maid of the Mist boat rides at Niagara Falls, New York." [MIST-1_Doc.794--CONTEMPT ORDER, P.3 – Footnote 3.] This is inaccurate. 75% of the sales were for Niagara Falls, Canada. This is irrelevant to the contempt issue. This demonstrates bias.

874. **BIAS #731 -- CONTEMPT ORDER Sentence #22:** "Sometimes the vouchers were called "e-tickets." The e-tickets were in the form of a receipt. Both the vouchers and the e-tickets could be swapped at Maid's box office in Niagara Falls for a ticket. The swap could only be done on the date of the boat ride at the gate." [MIST-1_Doc.794--CONTEMPT ORDER, P. 3 – Footnote 3.] This is false. This is irrelevant to the contempt issue. This is not the record before the Court. In 2006, the E-Tickets were to be swapped at a location other than Maid's box office. This was an extremely important issue that was made perfectly clear in MIST-1, but Judge Evans ignored the truth because ignoring it made it possible for her to rule against Alcatraz and me. (MIST-1_Doc.462, ¶¶ 2064, 2073, and 2079.) This demonstrates bias.

875. **BIAS #732 -- CONTEMPT ORDER Sentence #23:** "In 2005, Windsor and perhaps other

representatives of Alcatraz discussed with Maid of the Mist Alcatraz's proposal to sell vouchers to the public." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is incorrect. This is irrelevant to the contempt issue. The record before the Court shows quite clearly that both Carolyn Ballard Bazzo and I had discussions with Maid. The record in MIST-1 is filled with proof of this. Feigning ignorance is just more proof of the gross dishonesty of Judge Evans. This demonstrates bias.

876. **BIAS #733 -- CONTEMPT ORDER**

Sentence #24: "No contract was signed, but the parties established a credit arrangement whereby Maid would reimburse Alcatraz for vouchers." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is false. This is irrelevant to the contempt issue. A contract was signed by Ryan Windsor and Midge Serrianne of Maid. It was an exhibit since the early days of the litigation. In addition, there was a binding oral contract between Alcatraz and Maid. Judge Evans acknowledged in the TRO Order dated March 30, 2006 that it is the position of the Defendants that "Maid orally promised to honor its vouchers **throughout the entire 2005 season**." (**emphasis added**). [MIST-1_Doc.10.] This demonstrates bias.

877. **BIAS #734 -- CONTEMPT ORDER**

Sentence #25: "The relationship was soon problematic." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is true, but this is irrelevant to the contempt issue. Completely irrelevant information fills the order to make it longer while all of the important facts were excluded. This is a

technique regularly used by Judge Evans and the corrupt federal judges in Atlanta, Georgia. This demonstrates bias.

878. **BIAS #735 -- CONTEMPT ORDER**

Sentence #26: "A full explanation of the events that caused relations between the parties to unravel is set forth in the Court's order of May 12, 2006 granting Plaintiffs' motion for a preliminary injunction [MIST-1_Doc. 33], and also in the Court's order granting Maid's motion for summary judgment entered August 9, 2007 [MIST-1 Doc. 251]." [MIST-1_Doc.794--CONTEMPT ORDER, P.3.] This is false. This is irrelevant to the contempt issue. A full explanation is provided in MIST-1_Doc.462. MIST-1_Doc.33 and MIST-1_Doc.251 are filled with false statements as shown in MIST-1_Doc.462 and MIST-1_Doc.377 – Exhibits 9 and 22. This demonstrates bias.

879. **BIAS #736 -- CONTEMPT ORDER**

Sentence #27: "Maid notified Alcatraz by letter dated July 29, 2005 that it would no longer accept vouchers sold by Alcatraz. Maid's stated reason was that misrepresentations had been made on Alcatraz's website to consumers that the vouchers were being offered at a discounted, below retail price." [MIST-1_Doc.794 -CONTEMPT ORDER, P.4-5.] This is false. This is irrelevant to the contempt issue. The letter does not say that Maid would no longer accept vouchers. The letter does not say that misrepresentations had been made, and there were never any misrepresentations. The letter does not say that vouchers were being offered at a discounted, below retail price. There was NEVER any such

claim made by anyone with Maid. Alcatraz certainly NEVER did any such thing. MIST-1_Doc.368 consists of affidavits for over 700 customers stating that they had no complaints with Alcatraz. In the 30(b)(6) deposition, Mr. Timothy P. Ruddy stated "Maid placed no pricing restrictions on Alcatraz." [MIST-1_Doc.90,P.87-89.] Judge Evans always ignored the facts. She would claim the facts were just the opposite of the overwhelming proof because doing so facilitated her fraud upon the courts. This proves bias.

880. **BIAS #737 -- CONTEMPT ORDER**

Sentence #28: "The purchasers were angry when they arrived in Niagara Falls and learned that they had purchased vouchers which were well above Maid's posted ticket prices. [MIST-1_Doc.794--CONTEMPT ORDER, P.4.] This is false. This is irrelevant to the contempt issue. There was never any such evidence before the Court. Alcatraz sold the vouchers at the rates approved by Maid. Alcatraz and I obtained customer affidavits to prove customers had no complaint and made no complaint. Those affidavits are Exhibit 341 [MIST-1 Doc.378.] Maid never produced a single affidavit or any testimony as to any angry customers. Maid produced only 14 customer affidavits, and none of them said they were angry when they arrived in Niagara Falls. [MIST-1_Doc.378 and MIST-1_Doc.462: Exhibits1104, 265, 1105, 1147-1150, 1152-1158.] This demonstrates bias.

881. **BIAS #738 -- CONTEMPT ORDER**

Sentence #29: "Nonetheless, Alcatraz continued selling the vouchers. [MIST-1_Doc.794--CONTEMPT

ORDER, P.4.] This is false. This is irrelevant to the contempt issue. There was no "nonetheless." Alcatraz had a contract, and Maid breached it. Maid had no evidence or testimony whatsoever to dispute the validity of the contract. This demonstrates bias.

882. **BIAS #739 -- CONTEMPT ORDER**
Sentence #32: "Alcatraz removed the case claiming that it set forth a claim under the Lanham Act; Maid later disavowed this theory." [MIST-1_Doc.794--CONTEMPT ORDER, P.4 - Footnote 4.] This is false. This is irrelevant to the contempt issue. Maid continued to make claims of trademark violations. This demonstrates bias.

883. **BIAS #740 -- CONTEMPT ORDER**
Sentence #33: "But all Plaintiffs (New York and Canada corporations, with respective principal places of business in New York and Canada) were and are diverse from all Defendants (California and Delaware corporations with principal places of business in Georgia, and an individual Georgia resident), and the matter in controversy (the value of Maid's potentially diminished goodwill) exceeded $75,000, exclusive of interest and costs." [MIST-1_Doc.794--CONTEMPT ORDER, P.4- Footnote 4.] This is false. Maid never had $75,000 in damages. They had zero damages. This is irrelevant to the contempt issue. Judge Evans claimed Maid had damages in excess of $75,000 before she heard any facts, yet she only required Maid to post a $5,000 bond. This proves bias.

884. **BIAS #741 -- CONTEMPT ORDER**
Sentence #37: "In the course of dealings leading up

to this lawsuit, Windsor's conduct toward Maid was contentious and flamboyant." [MIST-1_Doc.794--CONTEMPT ORDER, P.4.] This is false. This is irrelevant to the contempt issue. The events which led up to the underlying litigation began in the summer of 2004. I did not become involved until the Plaintiffs breached the contract with Alcatraz on or about July 28, 2005. From that point forward, the Plaintiffs refused to speak to me or anyone from Alcatraz. From on or about August 6, 2005 until the lawsuit was filed on August 29, 2005, I attempted to get the Plaintiffs' attorneys to respond to us and deal with the breach of contract and slander. Proof of a lack of contentiousness is shown on Exhibits 284, 115, 281, 282, 283, 31, 32, 33, 34, 167, 26, 1, 10, and 27 to MIST-1_Doc.378 and MIST-1_Doc.462. What Judge Evans chooses to call contentious and flamboyant were emails that I sent to Maid's attorneys in an attempt to get them to speak with us (which they never did) and to report the outrageous slander by Maid's employees. These emails are Exhibit 427 to MIST-1_Doc.378. This demonstrates bias.

885. **BIAS #742 -- CONTEMPT ORDER Sentence #38:** "His comments and conduct have been documented in the Court's orders in this case, especially in the order granting the motion for preliminary injunction [MIST-1_Doc. 33] and the order granting Maid's motion for summary judgment [Doc. 251]." [MIST-1_Doc.794--CONTEMPT ORDER, P.4.] This is false. This is irrelevant to the contempt issue. The only documentation of my comments are the emails in Exhibit 427 to MIST-1_Doc.378. This demonstrates bias. It was okay for Maid's employees

to tell customers that Alcatraz was an Internet scam and that Alcatraz was run by criminals, and other such slander, but it was not okay for me to tell their attorneys that their clients are liars who will be sued.

886. **BIAS #743 -- CONTEMPT ORDER**

Sentence #39: "The Alcatraz defendants filed counterclaims against Plaintiffs for promissory estoppel, breach of contract, and slander." [MIST-1_Doc.794--CONTEMPT ORDER, P.4.] This is true, but incomplete. Alcatraz also filed a counterclaim for violation of the Georgia Fair Business Practices Act. This is irrelevant to the contempt issue. The repeated failure of judge Evans to get any of the facts right demonstrates bias.

887. **BIAS #744 -- CONTEMPT ORDER**

Sentence #41: "The Court never received a responsive answer to this question." [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is false and misleading. This is irrelevant to the contempt issue. The Transcript of the February 2, 2007 Hearing shows the following: I was shocked that I told Judge Evans that Maid had lied hundreds of times and she did nothing and didn't even seem to care. I told Judge Evans that I had prepared documentation to prove the lies. Judge Evans did nothing. She just said we weren't going to discuss it, and she changed the subject. [MIST-1_Doc.462, ¶9416 and Doc.174.] See MIST-1_Doc. 174, P.22-28 to see that I attempted to answer the question but was repeatedly interrupted by Judge Evans. This is misleading because Alcatraz never sought to sell "vouchers or e-tickets on its behalf" after November

2005. I have subsequently detailed the laws that make that totally legal in MIST-1 Doc.547 and MIST-1m Doc.606. Maid has admitted that they gave false testimony when they claimed to the contrary. (See Depositions of Timothy P. Ruddy, Christopher Glynn, and Robert J. Schul.) The true facts were meaningless to Judge Evans. If she was not bribed to issue the orders that she issued in MIST-1, she is the most evil person in the history of America to sit as a federal judge. This demonstrates bias.

888. **BIAS #745 -- CONTEMPT ORDER**

Sentence #42: "In a brief filed by Windsor on September 17, 2007 [MIST-1_Doc. 268], he claimed that Maid and Maid's Attorneys have established a pattern and practice of lies, multiple false sworn testimony at the Preliminary Injunction Hearing, in their depositions, and more. These were material false statements. The Plaintiffs have fabricated the claim upon which they obtained a Temporary Restraining Order and then a Preliminary Injunction. [MIST-1_Doc. 268, ¶ 11]." [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is true, but this is irrelevant to the contempt issue. This is a filing that I did 40 days after the summary judgment was issued when Maid was attempting to get attorneys' fees under 28 U.S.C. 1927. The motion was dismissed for lack of jurisdiction. [MIST-1_Doc.325.] I did not realize at that time that I was obligated to file an affidavit swearing to the facts, so there was none. Maid objected to the brief on that basis, and Judge Evans stated in her Order dated December 3, 2007 [MIST-1n Doc.325]: "... Plaintiffs also see attorney's fees pursuant to 28 U.S.C. § 1927

and the Court's inherent powers for Defendants' and Alcatraz's counsel's "bad faith conduct" [#299.] The Court dismisses Plaintiffs' Motion for Attorneys' Fees under 28 U.S.C. § 1927 for lack of jurisdiction. It is without jurisdiction to amend the basis for awarding attorney's fees given the pending appeal." [MIST-1_Doc.325, P.4 and 7.] This was never litigated. I attempted to raise these points at the February 2, 2007 Hearing in Chambers, but Judge Evans would not allow it to be discussed. See MIST-1_Doc.462, ¶9416 and Doc.174, P. 34. This demonstrates bias.

889. **BIAS #746 -- CONTEMPT ORDER**
Sentence #43: "When this Court granted Maid's motion for summary judgment, including dismissing the counterclaims on their merits, it granted Maid's claim under O.C.G.A. § 13-6-11 for attorneys' fees and expenses based on a determination that: Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's credit authorization was clearly stubbornly litigious. [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is true, but what an outrage. This is irrelevant to the contempt issue. There was a contract. Maid breached it. Litigious is defined: "Litigious signifies a disposition to sue; a fondness for pursuit of litigation or lawsuits." The existence of a bona fide controversy defeats a "stubbornly litigious / unnecessary trouble and expense" claim. I provided case law. Judge Evans ignored it. This demonstrates bias.

890. **BIAS #747 -- CONTEMPT ORDER**
Sentence #44: "From Mr. Windsor's emails

threatening to sue Maid and seeking four million dollars in damages, to the complaints filed with the Attorneys General and Better Business Bureaus, to Alcatraz's treatment of Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005, the Court finds it was Alcatraz's and Windsor's stubbornly litigious actions that gave rise to this litigation." [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is false. This is irrelevant to the contempt issue. First, this Court made no such statement in the Summary Judgment Order. (See MIST-1 Doc.251.) Second, there was a dispute over a contract, a bona fide dispute, so there can be no "stubbornly litigious." As to my emails threatening to sue Maid, the facts are that we first tried everything we could to avoid litigation. See Exhibits 284, 115, 281, 282, 283, 31, 32, 33, 34, 167, 26, 1, 10, and 27 to MIST-1_Doc.378, Exhibit 427 to Doc. 378, and Doc.462. As to my request for $4 million in damages, this was made after repeated reports of slander by Maid. They were telling Alcatraz's customers that Alcatraz was an "internet scam." I believe $4 million will be low when I get a jury involved. These were emails from me personally – not Alcatraz. Maid never testified that there was anything wrong with these emails. A request to an attorney cannot be stubbornly litigious. Attorneys make such requests of each other all the time. The complaints filed with the Better Business Bureau and the Attorney General were 100% accurate, and these were filed by me personally – not Alcatraz. (See Exhibit 419 to MIST-1_Doc.378.) Maid never testified that there was anything inaccurate in these reports. There was absolutely NO evidence that

Alcatraz improperly treated any Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005. The only customer who tried to make such a complaint is Judy Berry. She was proven to be a liar. See Deposition of Judith Berry. She knew she had been refunded before she ever went to take the boat ride. Judge Evans had absolutely no basis to call Alcatraz or me stubbornly litigious. Maid had no legal action against me, so they lied claiming I was selling tickets, stealing from customers, etc. All of that was totally false as they testified in their depositions. No one from Maid ever testified that Alcatraz mistreated any customer. There is no such testimony. Furthermore, the only three people that Maid ever produced for depositions had no customer contact, so anything they say is hearsay. Timothy P. Ruddy spoke with Richard Puglisi, but that's it, and Mr. Puglisi provided sworn affidavits that he had complaints with Maid but not Alcatraz. [MIST-1_Doc.378, Exhibits 183, 184, 496, 497.] Judge Evans simply fabricated all of this so she could damage Alcatraz and me. There are 39 false statements in the Preliminary Injunction Order and 210 false statements in the Summary Judgment Order. (See Exhibits 9 and 22 to MIST-1_ Doc.362.) This proves bias.

891. **BIAS #748 -- CONTEMPT ORDER**

Sentence #45: "This is a straightforward, simple case that Alcatraz and Windsor have unduly complicated and prolonged as a result of harboring hostile personal feelings against Maid." [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is false. This is a crime perpetrated by Maid and Judge Evans. This is

a gross miscarriage of justice. This is irrelevant to the contempt issue. This demonstrates bias.

892. **BIAS #749 -- CONTEMPT ORDER**
Sentence #46: "It is and always has been obvious that Alcatraz has no right to force Maid to accept it as its agent for ticket sales. [MIST-1_Doc. 251 at 43-44]." [MIST-1_Doc.794--CONTEMPT ORDER, P.5.] This is misleading. First, Alcatraz had a contract for the entire 2005 season. Second, Alcatraz never sought to be an agent for Maid after November 2005. I have subsequently detailed the laws that make that totally legal in MIST-1_Doc.547 and MIST-1_Doc.606. Maid has admitted that they gave false testimony when they claimed to the contrary. This is irrelevant to the contempt issue. This demonstrates bias.

893. **BIAS #750 -- CONTEMPT ORDER**
Sentence #51: "Thus, as of December 9, 2008, the instant action had been fully and finally settled, or at least it so appeared." [MIST-1_Doc.794--CONTEMPT ORDER, P.6.] This is false as it is not a fact. This may be Judge Evans' opinion, but this is not what I intended. This is irrelevant to the contempt issue. This demonstrates bias.

894. **BIAS #751 -- CONTEMPT ORDER**
Sentence #52: "The ink had barely dried on the December 9, 2008 settlement agreement when Windsor filed a motion to reopen the case on April 24, 2009 [Doc. 362]." [MIST-1_Doc.794--CONTEMPT ORDER, P.6.] This is false. The ink dried on December 8, 2008. I filed a motion 137 days later.

This is irrelevant to the contempt issue. This demonstrates bias.

895. **BIAS #752 -- CONTEMPT ORDER**

Sentence #55: "The motion was laced with claims that Maid of the Mist and its lawyers in the instant case committed perjury, filed false pleadings, abused discovery, and deprived Defendants of a fair hearing." [MIST-1_Doc.794--CONTEMPT ORDER, P.6.] This is false. This is irrelevant to the contempt issue. Some statements were made, and I provided all the proof, and it is uncontroverted. However, there were no claims of this type related to Maid's Attorneys. The total comments about Maid's Attorneys in the Motion to Reopen were only six sentences in the 76-paragraph Motion to Reopen. None of the six sentences were claims/causes of action. In comparison, there were 2,907 paragraphs in the 506-page complaint in the DC Action. This demonstrates bias.

896. **BIAS #753 -- CONTEMPT ORDER**

Sentence #60: "The motion outlined extensively, though in very general terms, assertions of fraud, perjury and corruption by the Maid entities, as well as by Maid's attorneys in this suit, and also alleged that this dishonesty was compounded by the undersigned's mistakes...." [MIST-1_Doc. 362, ¶1]. [MIST-1_Doc.794--CONTEMPT ORDER, P.7.] This is false. This is irrelevant to the contempt issue. Only six sentences in the 76-paragraph Motion to Reopen discussed fraud and the like by Maid's attorneys. None of the six sentences were claims/causes of action. In comparison, there are

2,907 paragraphs in the 506-page complaint in the DC Action. This demonstrates bias.

897. **BIAS #754 -- CONTEMPT ORDER Sentence #62:** "The documents which the Court did not require to be turned over to Alcatraz and Windsor were agreements which Maid had with the Canadian and New York authorities." [MIST-1_Doc.794--CONTEMPT ORDER, P.7.] This is true. At least this is what was supposed to be filed under seal with the Court. **CONTEMPT ORDER Sentence #63:** "The Court reviewed these documents in the instant case and directed them to be placed under seal and filed. They were not required to be turned over to Defendants." [MIST-1_Doc.794--CONTEMPT ORDER, P.7.] This is true. But it denied extremely important evidence to the Defendants. **CONTEMPT ORDER Sentence #64:** "Apparently, Windsor later obtained copies of these documents through a public documents request in New York or Canada or both." [MIST-1_Doc.794--CONTEMPT ORDER, P.8 - Footnote 5.] This is true. **CONTEMPT ORDER Sentence #65:** "Windsor asserts that one of these documents required Maid to limit its ticket prices to rates approved by the public authority." [MIST-1_Doc.794--CONTEMPT ORDER, P.8- Footnote 5.] See below. This is false. I assert that both documents require the rates to be charged to consumers who take the ride could not be greater than the amount that the authorities had agreed. See the 1989 Canadian Lease and the 2002 NY License. This demonstrates bias.

898. **BIAS #755 -- CONTEMPT ORDER Sentence #66:** "If so, the Court does not see how

having this agreement would have been helpful to Windsor." [MIST-1_Doc.794--CONTEMPT ORDER, P.8- Footnote 5.] This is false. It was explained in complete detail. This demonstrates bias.

899. **BIAS #756 -- CONTEMPT ORDER**
Sentence #67: "Such a requirement would reinforce the legitimacy of Maid's concern about voucher sales above the approved price.)" [MIST-1_Doc.794--CONTEMPT ORDER, P.8- Footnote 5.] This is false. Such a requirement meant that when Maid authorized Alcatraz, Vacations Made Easy, and Look Tours to sell tickets at higher prices, it had authorized something that put Maid in breach of their $1.3 billion contracts. Maid has testified that it approved the rates charged by Alcatraz. See Depositions of Timothy P. Ruddy and Robert J. Schul. Such a requirement explains why Maid lied repeatedly. Their motive was to keep us from discovering that they did what they did to keep us from discovering that they were in breach of contract. Judge Evans has failed to note that these contracts also prove that Maid committed fraud by obtaining federal and Canadian trademarks after signing an agreement stating they did not own the name. The NY License also proves that Maid committed fraud with the State of New York in the contract that gave them a $500 million contract without having to face competitive bidding. This demonstrates bias.

900. **BIAS #757 -- CONTEMPT ORDER**
Sentence #69: "Windsor claimed that it would have established the existence of an oral contract for Alcatraz to sell vouchers during the entirety of the

2005 summer season." [MIST-1_Doc.794--CONTEMPT ORDER, P.8.] This is true. This is irrelevant to the contempt issue. Carolyn Ballard Bazzo testified that Carlson committed that Alcatraz could sell for the entire 2005 season. (MIST-1_Doc.362 -- Exhibit 8 to Dec #4 -- Bazzo Depo, P 93: 11-25, P 94: 1-7, P 96: 22-25, P 97: 1-25, P 98: 1-25, P 99: 1-25, P 100: 1-24 and Exhibit B-25.) This demonstrates bias.

90 **BIAS #758 -- CONTEMPT ORDER**

Sentence #75: "The order's discussion of the merits of Windsor's Rule 60(b) motion noted that "Windsor's arguments under Rule 60 (b) (3), (4) and (5) are also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support for contentions that the Court should revisit its prior rulings in this case." [MIST-1_Doc.794--CONTEMPT ORDER, P.8-9.] This is accurate that Judge Evans wrote this, but what she wrote is totally false. The argument for 60(b)(3) stated: "Judgment was obtained by Maid due to fraud, misrepresentation, and misconduct. This conduct prevented the Defendants from being able to fully and fairly presenting their case. This Court's judgment was tainted by fraud, misconduct, and misrepresentation. [MIST-1_Doc.362--First Windsor Dec ¶ 48.] Maid withheld documents, fabricated evidence, gave perjured testimony, and abused the legal system in a wide variety of ways. Judge Evans denied the Defendants relief from judgment because she did not stop Maid from committing perjury, withholding documents, fabricating evidence, and perverting the legal system. The actions of Maid and Judge Evans deprived the Defendants of the

opportunity to be heard. [First Windsor Dec ¶ 49.] Windsor provided details about the fraud and misconduct of Maid to the attention of Judge Evans on February 2, 2007 [MIST-1 Docket # 174], but she never did anything about it. [MIST-1 Docket # 174, Page 34 Lines 4 to 6.] Windsor provided additional details in an affidavit dated November 19, 2007, attached as Exhibit 14 to the First Windsor Dec. [MIST-1_Doc.362 -- First Windsor Dec ¶ 50.] **Windsor details the fraud, misrepresentation, and misconduct in the Third Declaration of Defendant William M. Windsor (**MIST-1 Doc. 362 -- **Windsor Dec #3).** This is clear and convincing evidence. Maid's managers gave false testimony in affidavits, depositions, and at the Preliminary Injunction Hearing. [MIST-1_First Windsor Dec ¶ 51.] Summary judgment and Final Judgment were granted based upon misrepresentations so egregious as to amount to a fraud upon the court. [MIST-1_First Windsor Dec ¶ 52.] Windsor also submits that a hearing is needed with Judge Evans as a witness so the Defendants may inquire into what documents Judge Evans was given under seal for an in camera inspection. Did Maid submit false documents, or did Judge Evans withhold the evidence? [MIST-1_First Windsor Dec ¶ 53.] Mr. Raley failed to file a Rule 11 motion with proof of hundreds of lies and perjury by the Plaintiffs. **Exhibits 1 to 23 to** MIST-1 **Windsor Dec # 3 detail the Rule 11 violations, lies, and perjury**. [MIST-1_First Windsor Dec ¶ 54.] Windsor prays that the Court will reopen the case so the truth can come out. [MIST-1_First Windsor Dec ¶ 55.] Rule 60 (b) (3) provides that a court may relieve a party or a party's legal representative from a final judgment, order, or

proceeding based upon fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party. The Defendants can show that Maid committed fraud, misrepresentation, and perjury, and Maid's attorneys participated knowingly in these wrongs and suborned perjury. [MIST-1_First Windsor Dec ¶ 57.] This is a case where the Defendants did not act improperly but have incurred a fortune in legal fees due to the wrongful actions of Maid. [MIST-1_First Windsor Dec ¶ 58.]" My Third Declaration (MIST-1_Doc.362) and the 23 exhibits thereto (later my Amended Third Declaration -- MIST-1_Doc.377) provide complete and total proof. Each false statement or act is shown followed by citations to the court record and evidence to prove the perjury or fraud or other wrongdoing. Judge Evans' attempt to claim this constituted "cursory allegations of dishonesty with no evidentiary support for contentions that the Court should revisit its prior rulings in this case" is a lie of world-record proportions. The argument for 60(b)(4) stated " **the judgment is void.** The Final Judgment in this case should be void because Judge Evans did not act in a manner consistent with due process of law. Judge Evans withheld documents from the Defendants, denied reasonable discovery to the Defendants, allowed the legal process to be perverted with all forms of dishonesty by Maid." [MIST-1_First Windsor Dec ¶ 60.]" The argument for 60(b)(5) stated: " **the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable.** The Final Judgment in this case includes an injunction. Rule

60(b)(5) authorizes a court to grant relief from final judgment if "applying it prospectively is no longer equitable." [MIST-1_First Windsor Dec ¶ 62.] There were clearly erroneous factual findings in this case as well as erroneous legal findings, and a manifest injustice. [MIST-1_First Windsor Dec ¶ 63.] One additional piece of new information has to do with the idea that Alcatraz didn't have the right to sell the Plaintiffs' tickets. [MIST-1_First Windsor Dec ¶ 64.] Judge Evans claimed this was a "simple case" because she felt that Maid had the right to refuse to let Alcatraz sell Maid tickets. Alcatraz argued that it had the right to sell any tickets lawfully obtained. Alcatraz even became a registered ticket broker in Georgia, which legally allows tickets to be purchased from any source and resold. Judge Evans held to that misguided notion and ruled against the Defendants on the basis of that belief with no legal justification. [MIST-1_First Windsor Dec ¶ 65.] Judge Evans asked in Chambers on February 2, 2007 how Alcatraz felt it had the right to sell tickets. For starters, Alcatraz was granted the right to sell tickets "on credit" by the Plaintiffs in a written contract. Then there was an oral contract for the entire 2005 season that Alcatraz obtained because of concerns over strange behavior by Maid. It is also clearly established that anyone can sell a ticket for any event or attraction without the authorization of the event or attraction. Tens of millions of tickets are sold each year by ticket brokers and individuals online, on eBay, in the newspaper, etc. None of these sellers are "authorized." So, Alcatraz did not need any authorization from Maid to sell its tickets. In addition, travel agents and other types of

reservations services sell tickets and handle reservations for their clients without any authorized agent relationship with the events, attractions, or services. The effect of Judge Evans' ruling would be to make a new law that makes the actions of ticket brokers, consumers, and travel agents illegal, AND subjects them to pay the legal expense of the events, attractions, and services that choose to sue them. This is not right! [MIST-1_First Windsor Dec ¶ 66.] Windsor believed that Alcatraz had the legal right to sell tickets that it obtained from lawful sources, but he felt the practice is so universally accepted that there is no law about it and there was no need to cite any cases. Windsor has now learned that there is an applicable legal doctrine – the "first sale doctrine." [See ***Citizens of Humanity, LLC vs. Costco Wholesale Corporation*** in the Court of Appeals of the State of California Second Appellate District Division Three No. B204117 (2/11/2009).] The ***Costco*** decision was rendered in 2009, so the Defendants did not have this to reference during these proceedings prior to now. [MIST-1_First Windsor Dec ¶ 67.] When a manufacturer (Plaintiffs) parts with his goods (tickets), and they go upon the market, any third person (Alcatraz) has the right to purchase and sell them as he pleases, without the consent of the manufacturer (Maid); and the courts will not aid the manufacturer (Maid), under the guise of protecting his trade-mark or the suppression of unfair competition, by permitting him in such litigation to discover the sources from which an objectionable merchant – to him (Alcatraz) – obtains his supply. [MIST-1_First Windsor Dec ¶ 68.] The "competition privilege" should have provided a complete defense to Maid's claim of

intentional interference with prospective economic advantage, as Alcatraz did not commit an unlawful or illegitimate act. [MIST-1_First Windsor Dec ¶ 69.] The ruling in this case could establish a major number of precedents that change important laws in Georgia. As Windsor sees it, no one can legitimately fight a lawsuit without expecting to pay all legal fees if they lose. Tortious interference does not require damages. Tortious interference does not have to meet the tests that have long been used. Sworn complaints do not have to have a shred of truth. There are no penalties for discovery abuse; you can tamper with witnesses, conceal documents, alter documents, refuse to produce documents, and produce your important documents after discovery has closed. You do not have to produce your witnesses for depositions, but you can then use affidavits from them and deny the opposing party the ability to cross-examine. The legal basis for counterclaims is irrelevant, and the courts don't have to even deal with those issues. Slander is acceptable. No one is allowed to make a factual complaint to the Better Business Bureau. Courts may stop people from doing perfectly legal things. Courts do not have to go by the law. Courts do not have to consider the facts. Fact issues are no longer issues for a jury to consider; judges are allowed to handle jury trials themselves without involving actual jurors. The Georgia ticket broker laws are null and void, and no company or individual may ever sell a ticket or anything else that they acquired from someone else. Appeals have been eliminated as the law and the facts are not going to be considered by the Court of Appeals. [MIST-1_First Windsor Dec ¶ 70.]" In CONTEMPT ORDER [MIST-1 Doc.794],

P.6, Judge Evans states that I filed over 5,000 pages. There was massive proof. She ignored it all. This demonstrates bias.

902. **BIAS #759 -- CONTEMPT ORDER**

Sentence #76: "The Court also found that Windsor's argument under 60 (b) (6) merely rehashed his arguments under the other five subsections of Rule 60(b); hence, there was no evidence to support his Rule 60 (b) (6) claim. [Footnote 6.] [MIST-1_Doc.794--CONTEMPT ORDER, P.9.] This is false. The total commentary on Rule 60(b)(6) in the Motion to Reopen was: "Rule 60(b)(6) -- any other reason that justifies relief. There are certainly exceptional circumstances in this case. This is a case where relevant documents have been withheld from the Defendants by both Maid and the Court. There have been too many wrongs to list them again. [MIST-1_First Windsor Dec ¶ 72.] Judge Evans' actions prevented the Defendants from being able to handle this lawsuit as they needed while dealing with dishonest Plaintiffs and dishonest attorneys. This is an unusual and extreme situation where principles of equity *mandate* relief. The "exceptional circumstance" in this case is the totality of the mistreatment of the Defendants. [MIST-1_First Windsor Dec ¶ 73.] Please consider Rule 60(b)(6) if necessary." This certainly is no "rehash." This expressed the "exceptional circumstance" that is required for a finding under Rule 60(b)(6). Judge Evans ignored it. This demonstrates bias.

903. **BIAS #760 -- CONTEMPT ORDER**

Sentence #77: "The Court of Appeals dismissed, as frivolous, Windsor's appeal of this Court's denial of

Windsor's motion to reopen the case on September 9, 2009.) [MIST-1_Doc.794--CONTEMPT ORDER, P.9 - - Footnote 6.] This is true, but what an outrage. Judge Evans did not find the motion frivolous. The Eleventh Circuit did not provide one word of explanation. There was nothing frivolous. The Eleventh Circuit issued the order solely to protect Judge Evans. I have now learned that this is standard illegal operating procedure. This demonstrates bias.

904. **BIAS #761 -- CONTEMPT ORDER**

Sentence #80: "In light of the previous order refusing to reopen the judgment, Windsor's motions were dismissed." [MIST-1_Doc.794--CONTEMPT ORDER, P.9.] I don't know if this is true or false. The December 22, 2009 Order says this at one point, but it also addresses a few issues. If Judge Evans dismissed these motions because of her previous order, she was totally wrong in so doing. Multiple motions to reopen and for recusal are absolutely acceptable. They should have been properly considered. Judge Evans has a totally misguided desire to refuse to allow any of her rulings to be questioned. This demonstrates bias.

905. **BIAS #762 -- CONTEMPT ORDER**

Sentence #81: "The Court did consider on the merits Maid's motion for permanent injunction restricting future filings by William M. Windsor." [MIST-1_Doc.794--CONTEMPT ORDER, P.9.] This is false. This is duplicitous. Judge Evans rejects Windsor's motions because she considers the case closed, but she welcomes Maid's. This demonstrates bias.

906. **BIAS #763 -- CONTEMPT ORDER**

Sentence #82: "It did grant the motion, finding that "Windsor's persistently litigious behavior undermines the integrity of the Consent Final Order and Judgment submitted by the parties and signed by the Court in this case" [MIST-1_Doc. 723 at 19]." [MIST-1_Doc.794--CONTEMPT ORDER, P.9.] This is true but false. The "Consent Final Order and Judgment" has no integrity. It was extremely limited. It was secured by fraud. There were no releases given. Rule 60 motions are for the purpose of reopening cases and setting aside orders and judgments. This demonstrates bias.

907. **BIAS #764 -- CONTEMPT ORDER**

Sentence #91: "The D.C. action is a 504-page lawsuit containing 2,935 numbered paragraphs [MIST-1_Docs. 739-21 to 739-28]." [MIST-1_Doc.794--CONTEMPT ORDER, P.11.] This is false. It had been previously amended to 88 pages and 332 numbered paragraphs. This demonstrates bias.

908. **BIAS #765 -- CONTEMPT ORDER**

Sentence #95: "The D.C. complaint was dismissed as frivolous by U.S. District Judge Richard J. Leon on February 14, 2010." [MIST-1_Doc.794--CONTEMPT ORDER, P.11.] This is false. The order clearly did not dismiss the lawsuit as frivolous. The judge dismissed it for violation of an FRCP Rule, and it was wrongfully dismissed as I have proven to the DC Circuit Court of Appeals. This demonstrates bias.

909. **BIAS #766 -- CONTEMPT ORDER**

Sentence #99: "Damages were sought against all of the foregoing individual defendants as well as

against the Maid of the Mist entities and their attorneys." [MIST-1_Doc.794--CONTEMPT ORDER, P.11.] This is false. Damages were not sought against the government agencies. (See DC Action Complaint, DC-Action_Doc. 1 – Exhibit to MIST-1_Doc.739.) This demonstrates bias.

910. **BIAS #767 -- CONTEMPT ORDER Sentence #100:** "Windsor asks that the judgment and other rulings in the instant case and in Judge Duffey's case be set aside under Rule 60(d) of the Federal Rules of Civil Procedure." [MIST-1_Doc.794--CONTEMPT ORDER, P.11.] This is false. The Prayer for Relief in the DC Action seeks no such relief [MIST-1_Doc.739 -- DC Action Complaint, P.495.] This demonstrates bias.

911. **BIAS #768 -- CONTEMPT ORDER Sentence #110:** "This suit was brought under Rule 60(d), Federal Rules of Civil Procedure, and seeks to set aside the judgment in the instant case." [MIST-1_Doc.794--CONTEMPT ORDER, P.12.] This is false. It was also brought as an Independent Action in Equity and pursuant to the Court's Inherent Powers. This demonstrates bias.

912. **BIAS #769 -- CONTEMPT ORDER Sentence #120:** "A major thrust of the D.C. complaint is to set aside the Consent Final Order and Judgment, which Windsor signed in 2008, and to begin the same litigation again." [MIST-1_Doc.794--CONTEMPT ORDER, P.13.] This is false. The DC Action does not seek to "reopen" MIST-1. The Prayer for Relief in the DC Action

seeks no such relief [MIST-1_Doc.739 -- DC Action Complaint, P.495.] This demonstrates bias.

913. **BIAS #770 -- CONTEMPT ORDER**

Sentence #121: "The D.C. complaint contains all factual elements of the Rule 60(b) motion the Court ruled on in the instant case." [MIST-1_Doc.794--CONTEMPT ORDER, P.13.] This is true in that the facts are the facts, and when you recount the facts, these are appropriate to include. There are far more facts in the DC Complaint. A comparison of MIST-1 Doc.362 to the DC Action Complaint reveals that there is no mention of the facts from MIST-1_Doc.362 in the DC Action except to say that the Plaintiffs and their attorneys had been dishonest. The specific claims raised in MIST-1 Doc.362 were not raised as claims in the DC Action. This demonstrates bias.

914. **BIAS #771 -- CONTEMPT ORDER**

Sentence #122: "The complaint in the D.C. action names Windsor as the plaintiff and the Maid of the Mist entities as defendants, just as the instant case does." [MIST-1_Doc.794--CONTEMPT ORDER, P.13.] This is false. Windsor is a Defendant in the instant case, and the Maid entities are Plaintiffs in the instant case. This was likely an intentional lie to try to make it appear that the parties were in the same antagonistic relationship as plaintiff and defendant when they clearly were not. This demonstrates bias.

915. **BIAS #772 -- CONTEMPT ORDER**

Sentence #123: "The allegations of fraud, perjury and corruption against the Maid entities and their

attorneys are very much the same as in the instant case." [MIST-1_Doc.794--CONTEMPT ORDER, P.13.] This is false as Windsor asserted no claims whatsoever in MIST-1. This demonstrates bias.

916. **BIAS #773 -- CONTEMPT ORDER**

Sentence #125: "On March 10, 2010, this Court issued an order directing Windsor, the Alcatraz entities, and Ryan Windsor to show cause why they should not be held in contempt as requested in Maid's motion." [MIST-1_Doc.794--CONTEMPT ORDER, P.14.] This is false. Maid's motion sought contempt for filing appellate actions and the DC Action against Ryan Windsor, Alcatraz, and me. The March 10, 2010 Order actually says the following: "To the extent that Plaintiffs move the Court to hold any individuals or corporations other than Windsor in contempt of the December 22 order based on this (DC) filing by Windsor, their motions are DENIED. At the hearing, the above-indicated parties will be required to show cause why an order should not be entered holding them in contempt of the Court's December 22 order." This demonstrates bias.

917. **BIAS #774 -- CONTEMPT ORDER**

Sentence #127: "The Court dismissed the Alcatraz entities and Ryan Windsor from the contempt proceedings at Maid's request, after Ryan Windsor's testimony at the contempt hearing." [MIST-1_Doc.794--CONTEMPT ORDER, P.14 -- Footnote 7.] This is true. Alcatraz and Ryan Windsor never should have been included. The March 10, 2010 Order states: "Windsor subsequently filed the suit in the United States District Court for the District of Columbia and, even though it was dismissed, still

continues his efforts to prosecute that case. **To the extent that Plaintiffs move the Court to hold any individuals or corporations other than Windsor in contempt of the December 22 order based on this filing by Windsor, their motions are DENIED**." (March 10, 2010 Order – MIST-1_Doc.744, P.2.) Then in her April 26, 2010 Order after the contempt hearings concluded, Judge Evans stated: "It [MIST-1_Doc.723 --December 22, 2009 Order] was **never intended to limit Mr. Windsor's ability to file anything in the Court of Appeals**." (MIST-1_Doc.798 --April 23, 2010 Transcript, P. 110: 23-25.) Therefore, the entire expensive process for Alcatraz was bogus. Judge Evans, of course, changes her stories like the wind when it suits her. DC did not apply to anyone but me, and appeals were okay, but she forced Alcatraz and Ryan to spend $40,000 on attorneys for the hearing. At the hearing, she finally admitted that nothing was filed in her court without permission, though she claimed something was in the Order to Show Cause and at the start of the hearings on the Order to Show Cause. I now know what the D. stands for in Orinda D. Evans. It's Duplicitous. This proves bias – expensive bias.

918. **BIAS #775 -- CONTEMPT ORDER Sentence #131**: "He made a large number of other arguments, but they are not recited herein as they are irrelevant to the contempt issue which is currently before the Court." [MIST-1_Doc.794--CONTEMPT ORDER, P.14.] This is false. Every argument that I made is relevant. The validity of the December 22, 2009 injunction is absolutely relevant in a contempt proceeding. The requirements for a finding of contempt are also vital.

The injunction order was not valid or at all clear. **The clear and convincing evidence must establish that: (1) the allegedly violated order was valid and lawful; (2) the order was clear and unambiguous; and (3) the alleged violator had the ability to comply with the order**. (***McGregor v. Chierico***, 206 F.3d 1378, 1383 (11th Cir. 2000) (emphasis added); ***Georgia Power Co. v. National Labor Relations Board***, 484 F.3d 1288 (11th Cir. 04/17/2007).) [**emphasis added**.] "(See also ***NLRB v. Crockett-Bradley, Inc.***, 598 F.2d 971, 975 (5th Cir. 1979).) To support a conviction on criminal contempt, "'the government must prove: (1) that the court entered a lawful order of reasonable specificity; (2) the order was violated; and (3) the violation was willful.'" I cited many cases. "Willfullness" is a "deliberate or intended violation" rather than one that is "accidental, inadvertent or negligent...." ***United States v. Baldwin***, 770 F.2d 1550, 1558 (11th Cir. 1985) (citation omitted). The reasonable specificity element involves a factual inquiry that "'must be evaluated in the context in which it is entered and the audience to which it is addressed.'" ***In re McDonald***, 819 F.2d 1020, 1024 (11th Cir. 1987) (citation omitted). An order, command or decree under § 401(3) "meets the 'reasonable specificity' requirement only if it is 'clear, definite and unambiguous' [in] requiring the action in question." ***Bush Ranch Inc. v. E.I. Dupont De Nemours & Co.***, 99 F.3d 363, 370 (11th Cir. 1996). This demonstrates bias. When I nailed Judge Evans on the law, she just refused to discuss it.

919. **BIAS #776 -- CONTEMPT ORDER**

Sentence #133: "These arguments are that the

December 22 filing injunction is invalid because (1) it denied him access to the Courts; (2) it was issued without warning and without Windsor having the right to be heard; (3) it is too vague to be enforceable and does not, by its terms, bar the filing of the petitions for writs of mandamus or a new independent lawsuit under Rule 60(d) of the Federal Rules of Civil Procedure seeking to set aside the judgment and rulings in the instant case; (4) the filing of the lawsuit in the District of Columbia is not barred by the order or by the doctrine of res judicata because it is a new, independent action brought under Rule 60(d) and does not have the same parties or issues as the instant suit; (5) this Court lacks the power to bar Windsor from filing an independent action under Rule 60 (d) in the District of Columbia court and from filing petitions for mandamus in the Court of Appeals; (6) because the December 22 order was appealed on December 31, 2009, and is still on appeal, this Court currently has no jurisdiction to enforce the order; and (7) Windsor, a pro se litigant, did not intentionally disobey this Court's December 22 order in filing the petitions for writs of mandamus and the District of Columbia action, even if they were literally precluded by the December 22 order." [MIST-1_Doc.794--CONTEMPT ORDER, P.14-15.] This is true but not comprehensive. This demonstrates bias.

920. **BIAS #777 -- CONTEMPT ORDER Sentence #138:** ""Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir.

1986) (citation omitted)." [MIST-1_Doc.794--CONTEMPT ORDER, P.15.] This is true, though grossly misused by corrupt federal judges such as Judge Evans. They feign a need to protect their ability to carry out their functions when a party such as me is whipping them left and right with the facts and the law to prove their dishonesty. Federal courts have a bigger obligation, and that is to protect the Constitutional rights of all citizens. Judge Evans ignores Constitutional rights. This proves bias.

921. **BIAS #778 -- CONTEMPT ORDER Sentence #139:** "The only limit that the Court of Appeals "has placed upon injunctions designed to protect against abusive and vexatious litigation is that a litigant cannot be 'completely foreclosed from *any* access to the court.'" ***Martin-Trigona v. Shaw***, 986 F.2d 1384, 1387 (11th Cir. 1993) (per curiam) (quoting ***Procup***, 792 F.2d at 1074). And, as recognized by the Court of Appeals, "[c]onsiderable discretion necessarily is reposed in the district court in fashioning such injunctions. ***Procup***, 792 F.2d at 1074." [MIST-1_Doc.794--CONTEMPT ORDER, P.15-16.] It is false that there is only one limit placed upon such injunctions. Judge Evans cites ***Procup v. Strickland*** and ***Martin-Trigona v. Shaw*** as her authority claiming these cases allow her to fashion an injunction. But ***Procup v. Strickland***, 792 F.2d 1069-1074 (11th Cir. 1986) (en banc) requires notice and a hearing. It also says the courthouse doors cannot be closed. I was not given notice or a hearing, and the courthouse doors are closed. Procup, who is serving a life sentence for murder in the first degree, has engaged in ridiculously

extensive litigation in the District Court for the Middle District of Florida. Procup had filed 176 cases in the Jacksonville Division of the Middle District of Florida alone, not counting suits filed in other federal and state courts. He has ignored repeated warnings and admonitions from the district court. The court said: "In devising methods to attain the objective of curtailing the activity of such a prisoner, however, courts must carefully observe the fine line between legitimate restraints and an impermissible restriction on a prisoner's constitutional right of access to the courts." ... "...the requirement that Procup file suits only through an attorney may well foreclose him from filing any suits at all." ... "An absolute bar against a prisoner filing any suit in federal court would be patently unconstitutional." "..."Procup can be severely restricted as to what he may file and how he must behave in his applications for judicial relief. He just cannot be completely foreclosed from any access to the court. Vacated and Remanded." As to ***Martin-Trigona v. Shaw***, Martin-Trigona is known to have filed over 250 civil actions, appeals, and other matters throughout the United States, which have been pursued with "persistence, viciousness, and general disregard for decency and logic." He has used legal pleadings to ventilate his contempt and hatred of persons of Jewish heritage and to level accusations which "have often been personal, have often emphasized racial or religious affiliations, and have often involved the members of ... judges' and counsel's families." Martin-Trigona was given a hearing BEFORE the injunction was entered. Both of these cases make my point that access to the courts cannot be denied. The DECEMBER 22, 2009

INJUNCTION ORDER provides no access to the Court in MIST-1. Judge Evans has refused to file the vast majority of the motions, and I have not even attempted to file many things that I should have filed. The filing restrictions in the DECEMBER 22, 2009 INJUNCTION ORDER violate every case that I have been able to find. Judge Evans has completely shut the courthouse door to me in MIST-1. This is illegal, unconstitutional, and criminal. (See ***United States v. Powerstein***, 185 Fed.Appx. 811 (11th Cir. 06/19/2006) and many others.) Also note that the two cases cited by Judge Evans deal with restrictions on filing lawsuits, **NOT RESTRICTIONS ON FILING MOTIONS**. Judge Evans has cited no authority that she can deny me the ability to file anything as a Defendant while she gives free reign to the Plaintiffs. This is as UNCONSTITUTIONAL as it gets. **JUDGE EVANS HAS DENIED MY LEGAL AND CONSTITUTIONAL RIGHTS.** In the December 22, 2009 MEGA ORDER, Judge Evans eliminated any and all access to the court in Civil Action No. 1:06-CV-0714-ODE. I cannot file anything. My legal options for responding to the 1927 MOTION heard on April 16, 2010 were severely limited by Judge Evans' MEGA ORDER. It is a violation of my Constitutional rights to have to attempt to deal with motions as a result of the MEGA ORDER. I should have been able to file motions in defense, but I was enjoined from so doing. I was also blocked by Judge Evans' MEGA ORDER from getting the District Court Clerk to issue subpoenas for depositions, witnesses, and production of documents. Judge Evans refused to grant a continuance or a stay; refused to allow me to conduct discovery; refused to permit me to obtain subpoenas

for depositions or for the hearings; refused to recuse herself; refused to grant a jury trial; and more. Not only has Judge Evans said I can file nothing, but she lets the Plaintiffs file anything. Judge Roy Bean would be proud. Judge Evans has repeatedly violated my Constitutional rights to due process. Judge Evans had ignored every filing from May 22, 2009 until the order of December 22, 2009. Despite many requests for hearings and conferences, there was absolutely no communication from Judge Evans at any time to indicate that sanctions might be given any consideration whatsoever. (See ***Societe Internationale v. Rogers***, 357 U.S. 197, 2 L. Ed. 2d 1255, 78 S. Ct. 1087 (1958).) My legal options for responding to Plaintiffs' motions in 2010 have been non-existent. Judge Evans claims "The Court's December 22 order reaches only so far as to limit Windsor's attempts to dredge up this long-closed litigation, and to protect the judiciary and Plaintiffs from Windsor's litigious conduct. Wholly consistent with the portion of the filing injunction limiting Windsor's submissions to other courts, Windsor could initiate a civil action in any court in the country, including this Court, so long as that action did not implicate the same facts and issues of law already decided in the underlying litigation. The Court narrowly tailored its filing injunction to serve the purposes that the injunction aims to serve: bringing finality to the Court's prior orders and judgments and granting Plaintiffs relief from Windsor's continuous filings in a case which was closed, with his consent, nearly eighteen months ago. The Court has 'closed the courthouse doors' only to the extent necessary to bring finality to this completed litigation and to protect Plaintiffs from

the undue burdens of Windsor's inability to accept this case's end." Note that Judge Evans claimed "Windsor could initiate a civil action in any court in the country, including this Court, so long as that action did not implicate the same facts and issues of law already decided in the underlying litigation." The injunction says no such thing! The DECEMBER 22, 2009 ORDER denies the most basic right – the ability to file legitimate motions. This proves bias.

922. **BIAS #779 -- CONTEMPT ORDER**

Sentence #140: "A key fact makes the filing injunction in this case even more supportable than the filing injunctions imposed in ***Martin-Trigona*** and ***Procup***." [MIST-1_Doc.794--CONTEMPT ORDER, P.16.] This is false and outrageous. This proves bias.

923. **BIAS #780 -- CONTEMPT ORDER**

Sentence #141: "This case has been completely closed, with Windsor's consent, since December 9, 2008; the Court denied Windsor's motion to reopen this case nearly a year ago; the Court of Appeals dismissed Windsor's appeal from that order as frivolous in September 2009." [MIST-1_Doc.794--CONTEMPT ORDER, P.16.] This is false. This case has never been "completely closed." The rest of this is irrelevant. A case is never closed if there was fraud as there was in this case. A case is never closed if an independent action in equity, a Rule 60 action, or an action under the Court's inherent powers is appropriate. This proves bias.

924. **BIAS #781 -- CONTEMPT ORDER**

Sentence #142: "The filing injunction does not

prohibit Windsor from initiating new civil actions unrelated to this closed case." [MIST-1_Doc.794--CONTEMPT ORDER, P.16.] This is false. The filing injunction says nothing about "unrelated to this closed case." This proves bias.

925. **BIAS #782 -- CONTEMPT ORDER**

Sentence #143: "The filing injunction merely protects Plaintiffs and the judiciary from Windsor's continuous attempts to rehash questions of fact and law already decided by this Court and the Court of Appeals." [MIST-1_Doc.794--CONTEMPT ORDER, P.16-17.] This is false. The filing injunction protects Judge Evans from being exposed as a criminal, and it interferes with my efforts to see a gross miscarriage of justice corrected. This proves bias.

926. **BIAS #783 -- CONTEMPT ORDER**

Sentence #144: "Windsor has presented no authority, and the Court has found none through independent research, indicating that a court may not enjoin post-judgment filings related to a closed case to protect the finality of that case's outcome." [MIST-1_Doc.794--CONTEMPT ORDER, P.17.] This is true. However, there is no authority for such an injunction to deny access to the court for motions. Filing injunctions have to do with filing of frivolous lawsuits, not motions that a judge chooses to avoid. This proves bias.

927. **BIAS #784 -- CONTEMPT ORDER**

Sentence #145: "The filing injunction imposed on Windsor was tailored to serve those ends." [MIST-1_Doc.794--CONTEMPT ORDER, P.17.] This is false. The filing injunction was tailored to serve the

illegal needs of Judge Evans, the Plaintiffs, and their attorneys. This proves bias.

928. **BIAS #785 -- CONTEMPT ORDER Sentence #146:** "With regard to the portion of the filing injunction limiting Windsor's further submissions in this closed case, Civil Action No. 1:06-CV-0714-ODE, the Court acknowledges that a more prudent course of action may have been to restrict Windsor from submitting motions or other papers without first obtaining leave of the undersigned or the chief judge of this district." [MIST-1_Doc.794--CONTEMPT ORDER, P.17.] This is true. This is a requirement of virtually every filing injunction. **CONTEMPT ORDER Sentence #147:** "But, in practice, that portion of the Court's filing injunction has taken such a shape." [MIST-1_Doc.794--CONTEMPT ORDER, P.17.] This is false. The injunction could have been modified, but it was not. The Chief Judge has not been involved. I have been denied access to file many important motions and papers while the Plaintiffs have the right to file anything they choose. This proves bias.

929. **BIAS #786 -- CONTEMPT ORDER Sentence #149:** "Thus far, notwithstanding the permanent filing injunction, the Court has expressly permitted Windsor to file a notice of appeal from the Court's December 22 order [MIST-1_Doc. 724], a response to Plaintiffs' motion for post-judgment attorneys' fees and expenses [Doc. 731], a response to Plaintiffs' brief summarizing the attorneys' fees and expenses sought [MIST-1_Doc. 742], a response to Plaintiffs' "Motion for Contempt and Sanctions," either on his own or collectively with the other

Defendants in this action [MIST-1_Doc. 744], a motion to stay the judgment against him for such fees and expenses, a motion for approval of a supersedeas bond, a Notice of Appeal from the Court's order granting Plaintiffs such fees and expenses [Doc. 758], and an "Emergency Motion for Stay and Motion to Vacate Orders" [MIST-1_Doc. 782]." [MIST-1_Doc.794--CONTEMPT ORDER, P.17.] This is true, but it omits all that has been denied. I have been denied the ability to file anything by the December 22, 2009 Order. Judge Evans has refused to file many motions and documents that I have submitted. (See Docket for 2010; a number of the orders issued address motions that Judge Evans refused to file.) This proves bias.

930. **BIAS #787 -- CONTEMPT ORDER**

Sentence #150: "The portion of the Court's filing injunction limiting Windsor from submitting motions or other papers in this closed case, viewed in this light, does not impermissibly limit his access to this Court." [MIST-1_Doc.794--CONTEMPT ORDER, P.17-18.] This is false. This is duplicitous. I have no rights to file anything. I have no order authorizing any procedure that would allow me to file anything. The Plaintiffs can and have filed anything they choose, and I have no rights to respond or defend myself. Totally appropriate motions have been denied. I was totally denied the ability to file a response to the Motion for Attorneys' Fees. The Plaintiffs and their attorneys are criminals who should spend the rest of theitr lives in jail, but Judge Evans protects them with stuff like this. This proves bias.

931. **BIAS #788 -- CONTEMPT ORDER**

Sentence #152: "The mandamus petitions were filed in the Court of Appeals, not in this Court." [MIST-1_Doc.794--CONTEMPT ORDER, P.18.] This is true. Maid, however, sought criminal contempt charges against me for filing appeals, and Judge Evans allowed it. I was ordered to show cause why I should not be held in contempt for filing appeals. This proves bias.

932. **BIAS #789 -- CONTEMPT ORDER**

Sentence #153: "Moreover, the Court clarifies that, in fashioning the filing injunction in its December 22 order, the Court never intended to enjoin any actions Windsor might take in the Court of Appeals." [MIST-1_Doc.794--CONTEMPT ORDER, P.18.] This is false or at least duplicitous. If Judge Evans "never intended to enjoin any actions that Windsor might take in the Court of Appeals," how can she explain the Order to Show Cause that ordered Windsor, Ryan, and Alcatraz to show why they shouldn't be held in contempt for the filing of the petitions for writ of mandamus? Why were Alcatraz and Ryan Windsor ordered to show cause, since the Order to Show Cause clearly states that they have no responsibility for the DC Action? The only other claim by Maid was the filing of the Petitions for Writ of Mandamus with the Court of Appeals. This proves bias. This proves duplicity.

933. **BIAS #790 -- CONTEMPT ORDER**

Sentence #160: "Windsor received notice and an opportunity to be heard in opposition to the filing injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.18.] This is false. Case law provides that

notice must be provided by the Court. The Court provided no notice whatsoever. I received an opportunity to respond to a motion by the Plaintiffs six months before, but being heard is at a hearing. USLegal.com defines "opportunity to be heard" as: "Due process generally requires fairness in government proceedings. A person is entitled to notice and **opportunity to be heard at a hearing** when they have life, liberty, or property at stake." This "phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing, ***Pettit v. Penn.***, La.App., 180 So.2d 66, 69." ***Black's Law Dictionary***, 6th Edition, page 500. "Due Process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgement upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this is not due process of law." ***Black's Law Dictionary***, 6th Edition, page 500. "Hearing" is defined by dictionary.net as "(law) a proceeding (usually by a court) where evidence is taken for the purpose of determining an issue of fact and reaching a decision based on that evidence." The ***Lectric Law Library*** defines hearing as "A legal proceeding - other than a trial - held before a judge, magistrate or court commissioner." "There can be no doubt that, at a

minimum, the Due Process Clause requires notice and the opportunity to be heard incident to the deprivation of life, liberty or property at the hands of the government. ***Mullane v. Central Hanover Bank & Trust Co.***, 339 U.S. 306, 313, 70 S. Ct. 652, 656-57 (1950). And it is equally clear that the government must provide the requisite notice and opportunity for a hearing 'at a meaningful time and in a meaningful manner....'" ***Fuentes v. Shevin***, 407 U.S. 67, 80, 90, 92 S. Ct. 1983, 1994, 1999 (1972).

934. **BIAS #791 -- CONTEMPT ORDER Sentence #163:** "Moreover, nothing in Windsor's brief indicated what an evidentiary hearing could have possibly revealed." [MIST-1_Doc.794--CONTEMPT ORDER, P.19.] This is false. For starters, there were NO FACTS before the Court from the Plaintiffs. They did not file an affidavit...ever. The right to due process REQUIRES a hearing. I gave plenty of reasons in my brief as to what an evidentiary hearing would have accomplished. "...[If] the Court has any problem of any type with anything that Windsor has filed or alleged, Windsor asks the Court to schedule a conference so any issues may be addressed. Windsor's requests for conferences and hearings with this Court have all been ignored. In the business world, we address problems face-to-face or by telephone-email-fax-or letter, resolve them, and move on. Windsor bases this request on the following research: "Court errs if court dismisses pro se litigant without instruction of how pleadings are deficient and how to repair pleadings." ***B. Platsky v CIA***, 953 F .2d 25, 26 28 (2nd Cir. 1991). If this Court feels this case does not apply, all the Court needs to do is tell Windsor why. Windsor is happy to

accept constructive criticism and general guidance. Windsor is not looking for the Court to be his attorney. Windsor simply wants to abide by all laws and rules." [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, ¶7.) "Windsor is not looking for anything out of the ordinary in this regard. He is doing his very best. If this Court has any problem with that, then it should be discussed. Rules and cases should be cited to support any position that anything that Windsor is doing needs to be changed." [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, ¶9.] This is an improper pleading under the Federal Rules of Civil Procedure and Rule 11. The rules provide that all motions that rely on facts must have an affidavit attached. There is no affidavit filed with this motion, and the Plaintiffs include all types of allegations of fact. [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, ¶23.] "This Court should schedule a hearing. The truth will come out. The Plaintiffs should be scared to death of having to testify under oath. Windsor is ready, willing, and able!" [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, ¶62.] "that the presiding judge of this administrative judicial district assign another judge to this case and/or refer this Motion to the presiding judge of this administrative district for a hearing; that the Court grant an evidentiary hearing on this Motion;" [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, Prayer for Relief.] My 53rd Declaration filed with the Response was 58 pages and 173 paragraphs. [MIST-1_Doc.484 -- Windsor Response to Motion for Injunction, Dec #53.] This proves more false statements by Judge Evans, and it proves bias.

935. **BIAS #792 -- CONTEMPT ORDER**

Sentence #164: "The docket clearly reflected Windsor's history of filing dozens of frivolous postjudgment motions in this closed case, even after the Court refused to reopen the case and the Court of Appeals affirmed that decision." [MIST-1_Doc.794--CONTEMPT ORDER, P.19.] This is false. The docket reflected no such thing. Nothing had been called frivolous. Nothing was frivolous. This demonstrates bias.

936. **BIAS #793 -- CONTEMPT ORDER**

Sentence #165: "The documents that Windsor filed, and the language used therein, revealed the frivolity of his motions." [MIST-1_Doc.794--CONTEMPT ORDER, P.19.] This is false. The docket reflected no such thing. Nothing had been called frivolous. Nothing was frivolous. The December 22, 2009 Order did not call anything frivolous. I have not used inappropriate language at any time, though I have been tempted. Judge Evans, the Plaintiffs, and their attorneys are worse than common criminals. Judge Evans is a sick, evil woman who commits crime after crime because she can get away with it. [MIST-1_Doc.723.] This demonstrates bias.

937. **BIAS #794 -- CONTEMPT ORDER**

Sentence #166: "These filings were in the record and nothing more could have been gleaned from an evidentiary hearing." [MIST-1_Doc.794--CONTEMPT ORDER, P.19.] This is false. I explained precisely what an evidentiary hearing would have presented. This proves bias.

938. **BIAS #795 -- CONTEMPT ORDER**

Sentence #174: "The meaning of the term res judicata is irrelevant, though, as that term is not part of the command language of the filing injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.20.] This is false. This demonstrates the duplicity of Judge Evans. First, her order of December 22, 2009 clearly states "res judicata." FRCP Rule 65(d)(1) requires "describe in reasonable detail — and not by referring to the complaint or other document -- the act or acts restrained or required." "Command language" is not discussed. The important issue is reasonable detail, and this means the four corners of the injunction order is read. Case law is very clear on this. "**Res judicata applies not only to the precise legal theory presented in the prior case, but to all legal theories and claims arising out of the same nucleus of operative fact.**" ***NAACP v. Hunt***, 891 F.2d 1555, 1561 (11th Cir. 1990). [**emphasis added**.] (***Redford v. Gwinnett County Judicial Circuit***, No. 09-10807 (11th Cir. 09/25/2009).) Res judicata will bar a subsequent action if: (1) the prior decision was rendered by a court of competent jurisdiction; (2) there was a final judgment on the merits; (3) the parties were identical in both suits; and (4) the prior and present causes of action are the same. ***Jang v. United Tech. Corp.***, 206 F.3d 1147, 1149 (11th Cir. 2000) (citation omitted). The command language is only part of understanding an injunction order. FRCP Rule 65(d)(1) requires "describe in reasonable detail — and not by referring to the complaint or other document -- the act or acts restrained or required." "Command language" is not discussed. Case law is very clear on this. "Nucleus of operative facts" is a

term used with res judicata/claim preclusion not issue preclusion. This PROVES the duplicity of Judge Evans, and this proves bias.

939. **BIAS #796 -- CONTEMPT ORDER Sentence #175**: "The phrase "nucleus of operative facts" is not so specialized as to be incomprehensible to an ordinary citizen." [MIST-1_Doc.794--CONTEMPT ORDER, P.20.] This is false. This is a ridiculous thing to say. The term is totally meaningless to a layperson, and it is incomprehensible to attorneys without significant research. The case law indicated to me that since the facts applicable to the Final Judgment in MIST-1 that was issued on December 9, 2008 are not the facts in the New York lawsuit or what I was planning in Washington, DC and with the appeal to the Eleventh Circuit regarding the December 22, 2009 MEGA ORDER, I had no problem with the MEGA ORDER injunction. (See ***Adams v. S. Farm Bureau Life Ins. Co.***, 493 F.3d 1276, 1289 (11th Cir. 2007); ***Williams v. SunTrust Banks, Inc.***, No. 07-15254 (11th Cir. 06/04/2008); ***Baltimore S.S. Co. v. Phillips***, 1926, 274 U.S. 316, 47 S. Ct. 600, 71 L. Ed. 1069); ***Thomas v. Evans***, 880 F.2d 1235 (11th Cir. 08/21/1989).) ***S.E.L. Maduro v. M/V Antonio De Gastaneta***, 833 F.2d 1477, 1482 (11th Cir. 1987); ***Citibank, N.A. v. Data Lease Financial Corp.***, 904 F.2d 1498 (11th Cir. 07/05/1990); ***McKinnon v. Cross***, 935 F.2d 1187 (11th Cir. 07/12/1991).) I have asked dozens of people what "nucleus of operative fact" and "res judicata" mean, and no one has known. Since FRCP Rule 65 (d) requires that "an ordinary person reading the court's order should be able to ascertain from the document itself exactly what conduct is

proscribed" (***Hughey***, 78 F.3d at 1531 (quoting 11A Wright et al., ***Federal Practice and Procedure*** § 2955 at 308-09 (1995)). In the non-black-and-white world of the law, the terms res judicata and same nucleus of operative fact are as unclear as they get, and each case is different. The order is supposed to provide a "direct infraction of a specific command." (***Erhardt v. Prudential Group Inc.***, 629 F.2d 843 (2nd Cir. 09/11/1980).) The only specific command was to not file anything else in MIST-1, and I have not. A number of cases emphasize that the **orders that are required by law to be specific must have even greater specificity to lay persons**. (***United States v. Turner***, 812 F.2d 1552 (11th Cir. 03/30/1987).) I reviewed over 100 cases that said the order has to be clear and specific. (See Exhibit 1 to Dec #136.) A number of cases emphasized that **the proscribed conduct must be spelled out within the four corners of the order, so a reference to a summary judgment order and legal terms fails miserably**. (See ***H. K. Porter Co., Inc. v. National Friction Products***, 568 F.2d 24, 27 (7th Cir. 1977).) (See Exhibit 1 to Dec #136.) What is missing from Plaintiffs' motion and memorandum of law is any discussion or case law whatsoever relative to the real issue: "res judicata" and "nucleus of operative fact." This is because the Motion to Show Cause was TOTALLY FRIVOLOUS. The "nucleus of operative fact" pertains only to facts and causes of action that existed (or could have been) at the time this action was filed on August 29, 2005. Therefore, there is no "nucleus of operative fact" issue with the DC Action. I have literally many hundreds of cases that establish all of this. (See Exhibit 1 to Dec #136.) In ***Dinardo v. Palm Beach County Circuit Court Judge***, 199 Fed.Appx. 731

(11th Cir. 07/18/2006), the Clerk of the Federal Court didn't know what "nucleus of operative fact" meant, and a complaint was filed that a court later indicated should not have been filed because of the same nucleus of operative fact. Res judicata, or claim preclusion, bars the filing of a claim that was raised or could have been raised in prior litigation where (1) there is a final judgment on the merits; (2) rendered by a court of competent jurisdiction; (3) that involved the same parties or individuals in privity with them; and (4) involved the same cause of action. ***Ragsdale v. Rubbermaid, Inc.***, 193 F.3d 1235, 1238-39 (11th Cir. 1999). "[T]he principal test for determining whether the causes of action are the same is whether the primary right and duty are the same in each case. In determining whether the causes of actions are the same, a court must compare the substance of the actions, not their form. It is now said, in general, that if a case arises out of the same nucleus of operative fact, or is based upon the same factual predicate, as a former action, that the two cases are really the same 'claim' or 'cause of action' for purposes of res judicata." Id. at 1239 (internal quotation marks and citation omitted). The only aspect of res judicata in question here is whether the prior litigation between Soro and Citigroup involved the same claim or cause of action. The district court erred in determining that res judicata barred Soro's complaint. The prior litigation regarded only whether trade names used by Soro infringed on the CITICORP mark and an injunction directing Soro not to use trade names similar to the CITICORP mark. The instant case concerns whether Citigroup had the right to federally register the CITIGROUP mark. These are not the same causes of action and,

therefore, res judicata is not applicable." (***Soro v. Citigroup***, No. 08-10248 (11th Cir. 07/07/2008).) "As Jemsek concedes, an "identical factual predicate" requires only a common nucleus of operative fact. ***Adams***, 493 F.3d at 1289 ("Claim preclusion applies not only to the precise legal theory presented in the previous litigation, but to all legal theories and claims arising out of the same operative nucleus of fact.") (citation and quotation marks omitted). In determining whether claims share the "same operative nucleus of fact," we consider whether the "primary right and duty are the same." Id. at 1289 (quoting ***Manning v. City of Auburn***, 953 F.2d 1355, 1358 (11th Cir. 1992)). Jemsek's counterclaims in the bankruptcy case share the "same operative nucleus of fact" covered by the Love settlement. On a broad scale, the Love action alleged a nationwide conspiracy by Blue Cross licensees to diminish, delay, and deny proper claims for medically necessary procedures. The thrust of the Love action was that Blue Cross intentionally came up with various ways, especially using computer systems, to defraud doctors by refusing to pay for treatments that proved too costly, regardless of their medical necessity. The "primary right and duty" involved was Blue Cross' contractual duty to pay its doctors for medically necessary care given to its clients, and the doctors' contractual right to receive that money. See ***Adams***, 493 F.3d at 1289. the "primary right and duty" involved and violated is the same. ***Adams***, 493 F.3d at 1289. Blue Cross had a duty to pay for medically necessary treatments and Jemsek, like the other doctors, had the right to collect those payments. The Love action's factual predicate broadly encompasses the facts underlying Blue

Cross' systemic efforts to defraud doctors by denying, diminishing, or delaying payments on the basis of cost instead of medical necessity." (***Thomas v. Blue Cross and Blue Shield Association***, No. 08-15395 (11th Cir. 05/28/2009).) "While there are some differences, the two complaints both stemmed from the same nucleus of operative fact -- a family law dispute and the removal of Anthony Martin-Trigona's children from his custody. Both complaints described the removal of those children in essentially the same way. Anthony Martin-Trigona's complaint characterized the removal of his children as 'the children being taken hostage.' The complaint filed by his mother, Dr. Martin-Trigona, described the removal of her son's children as 'a judicial kidnapping' in which 'the children are being held as political hostages.'" (***Martin-Trigona v. Shaw***, 986 F.2d 1384 (11th Cir. 03/26/1993).) The case law is absolutely clear. This proves bias and corruption.

940. **BIAS #797 -- CONTEMPT ORDER**

Sentence #176: "Furthermore, Windsor's intellect and business background convince the Court that he has a good understanding of what that phrase means." [MIST-1_Doc.794--CONTEMPT ORDER, P.20.] This is false. I am highly intelligent and have an excellent business background, but I had no idea what these terms meant until I researched. I now understand what they mean, and I know that I did not violate the injunction! This proves bias.

941. **BIAS #798 -- CONTEMPT ORDER**

Sentence #177: "His Court filings generally show above-average vocabulary skills and writing and research capability." [MIST-1_Doc.794--CONTEMPT

ORDER, P.20.] This is false. My court filings always showed above-average vocabulary skills and writing and research capability. This demonstrates bias.

942. **BIAS #799 -- CONTEMPT ORDER**

Sentence #179: "This is the litigation Windsor seeks to reinstate." [MIST-1_Doc.794--CONTEMPT ORDER, P.20.] This is false and irrelevant. The DC Action does not seek to reinstate MIST-1; it seeks to set aside the December 22, 2009 Order due to fraud upon the courts. Even if it did seek to reopen the entire case, such an action is absolutely proper through an independent action in equity, as I filed in the DC Action. If setting aside a judgment or orders was barred by res judicata, there would be no need for Rule 60(b) or 60(d) or independent actions in equity. But there are, and these are provided to set aside a judgment and orders. This proves bias.

943. **BIAS #800 -- CONTEMPT ORDER**

Sentence #180: "After the final settlement was reached by all parties, Windsor sought through his Rule 60(b) motion to reopen the case and begin his original arguments again." [MIST-1_Doc.794--CONTEMPT ORDER, P.20.] This is false. The Motion to Reopen clearly requests only "that the Court grant DEFENDANT WILLIAM M. WINDSORS' MOTION TO REOPEN THIS CASE." [Doc.362.] This demonstrates bias.

944. **BIAS #801 -- CONTEMPT ORDER**

Sentence #181: "In support of his Rule 60 (b) motion, he made sweeping claims of fraud, perjury, corruption and judicial bias which preceded the

settlement agreement, as well as mistake and other grounds." [MIST-1_Doc.794--CONTEMPT ORDER, P.20-21.] This is absolutely false as the record shows. The Rule 60(b) motion to reopen did not address these issues. I prepared a chart for Judge Evans to show what the Rule 60(b) motion included, and it makes this crystal clear. [See MIST-1_Doc.362.] She ignored the cold hard truth as she always does. This proves bias.

945. **BIAS #802 -- CONTEMPT ORDER**
Sentence #182: "The claims were denied by the Maid entities in their response." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false. Maid never denied anything under oath. My claims are all uncontroverted. This proves bias.

946. **BIAS #803 -- CONTEMPT ORDER**
Sentence #183: "The operative facts relating to the 60(b) motion centered around those claims and denials." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false. "Operative facts" do not relate to arguments made in post-judgment motions. "Operative facts" all relate to the original lawsuit claims that existed at the time the lawsuit was filed (August 29, 2005). (See Exhibit 1 to Dec #136.) This is crystal clear from the case law, and this proves bias. Judge Evans will say absolutely anything to damage me.

947. **BIAS #804 -- CONTEMPT ORDER**
Sentence #184: "The Court finds that Windsor understands this." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false. The Court has no right to invent facts. There was no testimony from the

Plaintiffs about this, and I stated very clearly what undeniable research had shown. Judge Evans continually decided things when there was absolutely no evidence to even contradict my testimony and evidence. This proves bias.

948. **BIAS #805 -- CONTEMPT ORDER Sentence #185:** "He also understands that the allegations in the D.C. action include, though they are not limited to, these same allegations." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is totally false. Complaints include a lot of facts, and when sworn in a verified complaint such as mine, those are facts not allegations. The dates of facts are critical in an issue of "nucleus of operative facts." What matters are the causes of action and the requests for relief. Allegations have nothing to do with "nucleus of operative facts." The "nucleus of operative facts" refers only to claims/causes of action that existed prior to the filing of MIST-1 on August 29, 2005. The DC Action is totally different from the Rule 60(b) motion as I proved with exhibits that I presented. The lies of Judge Evans prove bias.

949. **BIAS #806 -- CONTEMPT ORDER Sentence #186:** "In a case involving several excessively litigious pro se plaintiffs, the Court of Appeals upheld a filing injunction that directed a clerk of court not to accept a complaint unless "it involved claims not arising from the same nucleus of operative fact as those alleged in the underlying § 1983 action or previous actions filed by" the pro se litigants, among other requirements. ***Dinardo v. Palm Beach County Circuit Court Judge***, 199 F. App'x 731, 734 (11th Cir. 2006) (per curiam)."

[MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is incomplete and deceptive. The case actually puts the decision in the hands of a judge of the district court: "The court, therefore, directed the clerk of the court not to accept a complaint from any of these plaintiffs unless (1) it involved claims not arising from the same nucleus of operative fact as those alleged in the underlying § 1983 action or previous actions filed by the Dinardos, and (2) had attached a written order from a judge of the district court confirming that the action is not frivolous." Furthermore, the clerk initially accepted and filed the pleading, so the clerk of the court felt that a virtually identical lawsuit "did not arise from the same nucleus of operative fact." The court found that both actions (1) were brought by the same plaintiffs against the same defendant, (2) challenged the propriety of Judge Crow's entry of a final judgment in the same state case, and (3) alleged violations of the Dinardos' due-process rights under the Fourteenth Amendment of the United States Constitution. The court determined that, because the previously filed action was dismissed for lack of subject-matter jurisdiction, the Dinardos' duplicate filing of the same case before a different judge of the same court violated "the universally condemned practice of 'judge shopping'" and local rules of procedure. The courts also discussed that, in issuing this injunctive order, the prior judge had found that the Dinardos had filed several frivolous, facially deficient pro se lawsuits in the district court against various public officials and judicial officers. The court also determined that the Dinardos, before filing the instant complaint, had not attached a written order confirming that the complaint was not

frivolous. The court concluded that this complaint was not in compliance with the injunctive order and directed the Dinardos to refile their complaint, with the requisite attached court order, if at all, within 20 days of the entry of the instant order. The Eleventh Circuit said: "The district court explained, in its original sua sponte dismissal order, that dismissal without prejudice was warranted because a prior court, in issuing an injunctive order, had "permanently enjoined [the Dinardos] from filing or attempting to initiate any further pro se lawsuits in any federal court without first obtaining a written order from a judge of this court confirming that the action is not frivolous," and that the Dinardos, before filing the instant complaint, had not attached a written order confirming that the complaint was not frivolous. In subsequently converting this dismissal to one with prejudice, the district court discussed that (1) the Dinardos' duplicate filing of the same case before a different judge of the same court violated "the universally condemned practice of 'judge shopping'" and the court's local procedural rules, and (2) the Dinardos' "attempt to manipulate judicial assignment processes" of the court "theaten[ed] the orderly administration of justice." So, this case does not really stand for what Judge Evans would like to claim. This case proves that a federal district court clerk did not understand the words "nucleus of operative facts" in the injunction. This case shows that this was not the reason for the ruling; it was failure to file a required statement. This case also shows that the pro se DiNardos failed to argue that the injunction was not clear, but I have. This proves bias as Judge Evans falsely claimed a case applied when it clearly did not.

950. **BIAS #807 -- CONTEMPT ORDER**

Sentence #187: "In light of this authority, and taking into account the language used in the filing injunction and the party at which the injunction was directed, the Court concludes that the injunction was sufficiently specific and clear." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false and outrageous. ***DiNardo*** means nothing in relation to this case. If anything, it proves my case. This is outrageous and proves bias.

951. **BIAS #808 -- CONTEMPT ORDER**

Sentence #189: "Windsor next challenges the validity of the filing injunction by arguing that this Court did not have the power to enjoin Windsor's filings in other courts (the D.C. action) and in the Court of Appeals (the petitions for writs of mandamus)." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false. I never challenged this Court's ability to enjoin me from filing in other District Courts. I only challenged appellate courts and state courts. This is proven by the transcript of the hearing and everything that I have filed. More lies by Judge Evans prove bias.

952. **BIAS #809 -- CONTEMPT ORDER**

Sentence #190: "The Court does have the power to prohibit filings in other trial courts under the specific facts of this case." [MIST-1_Doc.794--CONTEMPT ORDER, P.21.] This is false. Judge Evans has no authority over state courts. Case law makes this clear. This proves bias.

953. **BIAS #810 -- CONTEMPT ORDER**

Sentence #196: "However, in this case (unlike in ***Martin-Trigona***), the injunction is limited to filing claims in another court which have already been adjudicated in this Court and affirmed by the Court of Appeals." [MIST-1_Doc.794--CONTEMPT ORDER, P.22.] This is false. The December 22, 2009 order says no such thing! [MIST-1_Doc.723.] This is easily proven by examination of the December 22, 2009 order. The ubiquitous lies of Judge Evans prove bias.

954. **BIAS #811 -- CONTEMPT ORDER**

Sentence #197: "A major reason for issuing the injunctive order is to keep Windsor from pursuing his vendetta against the Maid entities through relitigation of the instant case, thereby causing them inappropriate trouble and expense." [MIST-1_Doc.794--CONTEMPT ORDER, P.22.] This is false. A major reason is to shield Judge Evans and her co-conspirators (Maid and Maid's attorneys) from criminal prosecution and jail. This proves bias. The truth and Constitutional rights are meaningless to Judge Evans. This proves bias.

955. **BIAS #812 -- CONTEMPT ORDER**

Sentence #198: "This objective is defeated if a new court, aided by a filing by Maid's attorneys and Windsor, has to determine whether claims in the new case duplicate claims in the old case." [MIST-1_Doc.794--CONTEMPT ORDER, P.22.] This is false and unconstitutional. An average high school student could tell if the claims in two cases are identical. This proves bias.

956. **BIAS #813 -- CONTEMPT ORDER**

Sentence #199: "The Court concludes that its injunction properly limited Windsor's ability to file new lawsuits in other trial courts, so long as that limit hinged on those new suits stemming from the same set of facts underlying the closed case before the undersigned." [MIST-1_Doc.794--CONTEMPT ORDER, P.23.] This is false. The injunction does not provide a limit on "new suits stemming from the same set of facts underlying the closed case before the undersigned." And Judge Evans claimed I committed contempt by filing an action to set aside previous orders due to fraud upon the court involving her. This proves bias.

957. **BIAS #814 -- CONTEMPT ORDER**

Sentence #200: "The injunction on Martin-Trigona targeted his propensity to file new, frivolous lawsuits across the country by limiting his ability to do so; the Court's injunction here targets Windsor's propensity to continue rehashing issues of fact and law already conclusively determined by this Court and the Court of Appeals, and the Court concludes that it may limit Windsor's ability to do so elsewhere." [MIST-1_Doc.794--CONTEMPT ORDER, P.23.] This is false. Filing injunctions are limited to excessive filing of frivolous lawsuits. Windsor did not file MIST-1, and he has no counterclaim. This proves bias.

958. **BIAS #815 -- CONTEMPT ORDER**

Sentence #203: "As a general proposition, "[the filing of a notice of appeal is an event of jurisdictional significance - it confers jurisdiction on the court of appeals and divests the district court of its control

over those aspects of the case involved in the appeal." ***Griggs v. Provident Consumer Disc. Co.***, 459 U.S. 56, 58 (1982)." [MIST-1_Doc.794--CONTEMPT ORDER, P.23.] This is true. **CONTEMPT ORDER Sentence #204:** "But this proposition is not absolute. Federal Rule 62(a) carves out an exception to the general ***Griggs*** rule, providing that, 'unless the court orders otherwise ... an interlocutory or final judgment in an action for an injunction [is] not stayed after being entered, even if an appeal is taken.'" [MIST-1_Doc.794--CONTEMPT ORDER, P.23.] This is false. Federal Rule 62(a) does no such thing. It says: "But unless the court orders otherwise, the following are not stayed after being entered, even if an appeal is taken: (1) an interlocutory or final judgment in an action for an injunction or a receivership; or (2) a judgment or order that directs an accounting in an action for patent infringement." There were no judgments issued in the DECEMBER 22, 2009 INJUNCTION ORDER. Sentence #204 has been deliberately twisted and distorted by Judge Evans to make it appear that it says something that it does not. This proves bias.

959. **BIAS #816 -- CONTEMPT ORDER Sentence #205:** "This exception to the general Griggs rule stems from district courts' authority to "maintain [] continuing jurisdiction to enforce a judgment" granting an injunction, even while an appeal from that judgment is pending. ***United States v. Revie***, 834 F.2d 1198, 1205 (5th Cir. 1987). "Until [that] judgment has been properly stayed or superseded, the district court may enforce it through contempt sanctions." Id." [MIST-1_Doc.794--

CONTEMPT ORDER, P.23-24.] This is false. ***United States v. Revie*** is a bankruptcy court action where a judge issued a Show Cause order. There were no motions. ***Revie*** is neither an Eleventh Circuit case nor a Supreme Court case. It was 1987, and there have been 14 Eleventh Circuit decisions on this issue since ***Revie***. Even more important, ***Revie*** does not stand for what Judge Evans has claimed. The rules are different in bankruptcy courts, and the decision in ***Revie*** was that 28 U.S.C. § 157 gives bankruptcy court judges the power to hear motions at all times. The case is not an exception to ***Griggs***. The court ruled that a bankruptcy court retains jurisdiction to conduct proceedings intended to enforce a turnover order until such time as the enforcement of the order has been stayed. Revie did not violate a final civil contempt ruling of the bankruptcy judge; rather, he willfully disobeyed a show cause order. "Judge Taitte issued two orders to show cause in order to assess whether or not Revie should be found in civil contempt for failure to turn over the gold coin. "The Bankruptcy Code does not place such a shackle on the writs of Article I judges. 28 U.S.C. § 157(b) allows bankruptcy judges to enter judgments in "core proceedings;" 28 U.S.C. § 157(c) instructs that in non-core proceedings, related to a case under title 11, bankruptcy judges may submit proposed findings of fact and conclusions of law to the district court. In both situations the statute provides that bankruptcy judges "may hear" proceedings. The statute does not say that bankruptcy judges may "hear only" when told to do so by district court judges. Once the district court provided that a bankruptcy judge would hear Shearn Moody's case (28 U.S.C. §

157(d)), the bankruptcy judge had authority to hear a proceeding related to the case. A proceeding to show cause why a turnover order had not been obeyed falls within the authority granted in 28 U.S.C. § 157. Few functions are more essential to conducting a court than maintaining order and enforcing attendance." Judge Evans cited no Eleventh Circuit case law to support the insupportable position that she had the right to hear motions. In fact, there is a precedent in this very action. Judge Evans issued this order on December 3, 2007: "... Plaintiffs also seek attorney's fees pursuant to 28 U.S.C. § 1927 and the Court's inherent powers for Defendants' and Alcatraz's counsel's "bad faith conduct" [#299.] The Court dismisses Plaintiffs' Motion for Attorneys' Fees under 28 U.S.C. § 1927 for lack of jurisdiction. It is without jurisdiction to amend the basis for awarding attorney's fees given the pending appeal." [MIST-1_Doc.325, P.4 and 7.] THIS PROVES JUDGE EVANS' DUPLICITY AND BIAS.

960. **BIAS #817 -- CONTEMPT ORDER** **Sentence #206:** "This exception makes sense." [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This is false. This is not an exception in the Northern District of Georgia or the Eleventh Circuit. This proves bias.

961. **BIAS #818 -- CONTEMPT ORDER** **Sentence #207:** "If the *Griggs* rule automatically divested this Court of its authority to enforce its December 22 order and hold parties in contempt for violating that order's terms, as Windsor argues, "a person could completely frustrate judicial

proceedings by disobeying an order of the Court during the pendency of an appeal without giving any security that it will be complied in the event of affirmance." ***Blackwelder v. Crooks***, 151 F. Supp. 26, 28 (D.D.C. 1957), rev'd in part on other grounds sub nom. ***Blackwelder v. Collins***, 252 F.2d 854 (D.C. Cir. 1958)." [MIST-1_Doc.794--CONTEMPT ORDER, P.24-25.] This is false. I argued that the injunction was illegally issued and that the appeal stayed jurisdiction over motions by the Plaintiffs. This demonstrates bias.

962. **BIAS #819 -- CONTEMPT ORDER Sentence #208:** "See also ***Howat v. Kansas***, 258 U.S. 181, 189-90 (1922) ("An injunction duly issuing out of a court of general jurisdiction with equity powers must be obeyed by them, however erroneous the action of the court may be, it is for the court of first instance to determine the question of the validity of the law, and until its decision is reversed for error by orderly review, either by itself or by a higher court, its orders based on its decision are to be respected, and disobedience of them is contempt of its lawful authority, to be punished.") (citations omitted);" [MIST-1_Doc.794--CONTEMPT ORDER, P.24 -- Footnote 8.] This is false. More recent cases require that the injunction be lawful in order to have a finding of contempt. This demonstrates bias.

963. **BIAS #820 -- CONTEMPT ORDER Sentence #209:** "***Brown v. Braddick***, 595 F.2d 961, 965 (5th Cir. 1979) ("A second threshold question is whether Braddick's notice of appeal deprived the district court of any further power to take action to enforce its order. Since Braddick failed to ask the

district court for a stay pending appeal and to post supersedeas bond as required by [Rule] 62 (d), the district court retained power to enforce its order by civil contempt proceedings.") [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This is false. This is irrelevant to the contempt issue. The issue in the instant case is that Judge Evans did not have the jurisdiction to hear motions. This demonstrates bias.

964. **BIAS #821 -- CONTEMPT ORDER** Sentence #210: "***Locke v. United States***, 75 F.2d 157, 159 (5th Cir. 1935) ("Willful disobedience of an injunction, however erroneous, issued by a court having jurisdiction while such injunction is in force unreversed constitutes contempt of court.") (citation omitted);" [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This is false. Nothing was willful with me. I made this very clear in everything that I have filed and in everything that I testified to at the Contempt Hearing. (See Transcript of Contempt Hearing.) This proves bias.

965. **BIAS #822-- CONTEMPT ORDER** Sentence #211: "***Turay v. Seling***, 108 F. Supp. 2d 1148, 1153 n.2 (W.D. Wash. 2000) ("A contempt finding may be made, and sanctions imposed, while an appeal from an injunction is pending.");" [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This may be true in some circuits. However, motions may not be considered. This demonstrates bias.

966. **BIAS #823 -- CONTEMPT ORDER** Sentence #212: "***Georgine v. Amchem Prods., Inc.***, Civil No. 93-0215, 1995 WL 422792, at *6 (E.D. Pa.

July 12, 1995) ("Although the filing of an appeal generally divests a district court of its control over those aspects of the case involved in the appeal, courts still maintain jurisdiction for the purpose of enforcing its injunctions.")" [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This may be true in some circuits. However, motions may not be considered. This demonstrates bias.

967. **BIAS #824 -- CONTEMPT ORDER**

Sentence #213: "***Vac-Air, Inc. v. John Mohr & Sons, Inc.***, 54 F.R.D. 580, 580 (E.D. Wis. 1972) (concluding that, notwithstanding a pending appeal from an injunctive order, district court retained jurisdiction to inquire whether injunction had been violated and whether any party was, as a result, in contempt of court)" [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] This may be true in some circuits. However, motions may not be considered. This demonstrates bias.

968. **BIAS #825 -- CONTEMPT ORDER**

Sentence #214: "Unfortunately for Windsor, '[t]he law is not as helpless in that respect' as he might wish." [MIST-1_Doc.794--CONTEMPT ORDER, P.25.] This is false. This Court had no jurisdiction to receive and consider motions by the Plaintiffs. This demonstrates bias.

969. **BIAS #826 -- CONTEMPT ORDER**

Sentence #215: "***Blackwelder***, 151 F. Supp. at 28. Federal Rule 62(c) permits an enjoined party to move the district court to "suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights" during

the pendency of an appeal from an interlocutory order or final judgment that grants an injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.25.] This is false. This is irrelevant as this is not the issue. ***Blackwelder*** is a 1957 case in the DC Circuit. The fact situation is different, and the parties did not make the arguments that I have made. The law has either changed, or the court got it wrong in ***Blackwelder***. The Eleventh Circuit has issued decisions that make a 1957 DC Circuit decision irrelevant. This demonstrates bias.

970. **BIAS #827 -- CONTEMPT ORDER**
Sentence #218: "The Federal Rules make clear that the permanent filing injunction was not automatically stayed when Windsor appealed the order establishing that injunction on December 31, 2009." [MIST-1_Doc.794--CONTEMPT ORDER, P.25.] This is false. The Federal Rules say no such thing, and case law establishes that this is erroneous. This is also essentially irrelevant to the instant issue. This demonstrates bias.

971. **BIAS #828 -- CONTEMPT ORDER**
Sentence #219: "Windsor, and any other parties acting in concert with him or at his behest, were thus required to obey that order despite any pending appeal challenging the injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.25.] This is false. The injunction says no such thing. MIST-1 [Doc.723.] This demonstrates bias.

972. **BIAS #829 -- CONTEMPT ORDER**
Sentence #220: "And as a corollary to that conclusion, the Court retains jurisdiction to consider

whether Windsor, or anyone else bound by the terms of the injunction, might be in contempt of court for violating the injunction's terms." [MIST-1_Doc.794--CONTEMPT ORDER, P.25-26.] This is true. But the Court does not have jurisdiction to hear motions. This demonstrates bias.

973. **BIAS #830 -- CONTEMPT ORDER**

Sentence #223: "As stated above, it is not strictly necessary to examine the doctrine of res judicata to determine whether Windsor violated the filing injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.26.] This is false. The terms of an injunction are determined from the "four corners" of the order. I provided extensive case law on this point. The doctrine of res judicata is absolutely essential to determine whether I violated the filing injunction because that is what I was enjoined from doing. The injunction specifically explains that res judicata is what would prohibit actions. "Nucleus of operative facts" is a res judicata issue. This proves bias. Judge Evans has been a federal judge for 33 years, and she should understand res judicata.

974. **BIAS #831 -- CONTEMPT ORDER**

Sentence #224: "The Court need only determine whether Windsor violated the command language of the injunction, which does not include that term, but rather 'the same nucleus of operative fact.'" [MIST-1_Doc.794--CONTEMPT ORDER, P.26.] This is false. This is ridiculous. FRCP Rule 65 disagrees with Judge Evans' ridiculous claim. This proves bias.

975. **BIAS #832 -- CONTEMPT ORDER**

Sentence #225: "Nonetheless, the Court notes that Windsor's stated understanding of 'res judicata' is incorrect." [MIST-1_Doc.794--CONTEMPT ORDER, P.26.] This is false. My understanding is perfect. I have proven it with over 2,000 cases. If my understanding of res judicata were incorrect, it means I could not have made a willfull violation of the injunction, so I may not be held in contempt. This proves bias.

976. **BIAS #833 -- CONTEMPT ORDER**

Sentence #227: "The doctrine of res judicata contains two related concepts: claim preclusion and issue preclusion." [MIST-1_Doc.794--CONTEMPT ORDER, P.26.] This is false. The recent cases all explain that these concepts must be treated separately because they have distinct differences. (See Exhibit 1 to Dec #136.) This demonstrates bias.

977. **BIAS #834 -- CONTEMPT ORDER**

Sentence #228: "Issue preclusion generally means '[t]he binding effect of a judgment as to matters actually litigated and determined in one action on later controversies between the parties involving a different claim from that on which the original judgment was based,' or '[a] doctrine barring a party from relitigating an issue determined against that party in an earlier action, even if the second action differs significantly from the first one.' BLACK'S LAW DICTIONARY 298 (9th ed. 2009)." [MIST-1_Doc.794--CONTEMPT ORDER, P.26-27.] This is true, but issue preclusion is the doctrine of collateral estoppel, NOT RES JUDICATA! This case is about res judicata. Collateral estoppel/issue preclusion is

not mentioned in the December 22, 2009 injunction. The doctrine of res judicata, or claim preclusion, bars a litigant from raising claims that were raised or could have been raised in a prior action if: "(1) the prior decision was rendered by a court of competent jurisdiction; (2) there was a final judgment on the merits; (3) the parties were identical in both suits; and (4) the prior and present causes of action are the same." ***Davila v. Delta Air Lines, Inc.***, 326 F.3d 1183, 1187 (11th Cir. 2003) (quotation omitted). For purposes of res judicata, the prior and present causes of action are the same if they arise "out of the same nucleus of operative fact, or [are] based upon the same factual predicate." Id. (quotation omitted). The DelVecchios previously challenged the procedural validity of their 2001 tax assessment before the Tax Court and this Court in DelVecchio II as a critical and necessary part of those proceedings, and we previously held that the 2001 tax assessment was procedurally valid. A fair reading of the record shows that both DelVecchio II and the instant action stem from the "same nucleus of operative fact" and "the same factual predicate." (***Delvecchio v. Internal Revenue Service***, No. 09-12400 (11th Cir. 01/08/2010).) Collateral estoppel, or issue preclusion, bars re-litigation of issues actually litigated and necessary to the judgment of prior litigation when the party against whom the earlier decision is asserted had a full and fair opportunity to litigate in the earlier proceeding. ***Precision Air Parts, Inc. v. Avco Corp.***, 736 F.2d 1499, 1501 (11th Cir. 1984). "There are several prerequisites to the application of collateral estoppel: (1) the issue at stake must be identical to the one involved in the prior litigation; (2) the issue must have been actually

litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in that action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding." ***I.A. Durbin, Inc. v. Jefferson Nat'l Bank***, 793 F.2d 1541, 1549 (11th Cir. 1986). The only aspect of collateral estoppel in question here is whether the issues in the prior proceedings were identical to the issues in the instant case. (***Soro v. Citigroup***, No. 08-10248 (11th Cir. 07/07/2008).) The doctrine of res judicata, or claim preclusion, bars the filing of claims which were raised or could have been raised in an earlier proceeding. When claim preclusion does not apply to bar an entire claim or set of claims, the doctrine of collateral estoppel, or issue preclusion, may still prevent the relitigation of particular issues which were actually litigated and decided in a prior suit. ***I.A. Durbin, Inc. v. Jefferson Nat'l Bank***, 793 F.2d 1541, 1549 (11th Cir. 1986); ***Kaspar Wire Works, Inc. v. Leco Eng'g and Mach., Inc.***, 575 F.2d 530, 535, et seq. (5th Cir. 1978). ***Kaspar*** and other pre-1981 Fifth Circuit decisions rendered prior to the split of that Circuit into the present Fifth and this (the Eleventh) Circuits are binding upon this court. ***Bonner v. City of Prichard***, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc). This court, in ***I.A. Durbin***, also wrote (at 1549): Collateral estoppel or issue preclusion forecloses relitigation of an issue of fact or law that has been litigated and decided in a prior suit. There are several prerequisites to the application of collateral estoppel: (1) the issue at stake must be identical to the one involved in the prior litigation; (2) the issue must

have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in that action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding. . . . (***Citibank, N.A. v. Data Lease Financial Corp.***, 904 F.2d 1498 (11th Cir. 07/05/1990).) The preclusive effect of consent judgments is in some instances different, depending upon whether res judicata (claim preclusion) or collateral estoppel (issue preclusion) is involved. "**Consent judgments ordinarily support claim preclusion but not issue preclusion.**" 18 C. ***Wright, A. Miller & E. Cooper*** § 4443 at 385 (footnote omitted). (***Citibank, N.A. v. Data Lease Financial Corp.***, 904 F.2d 1498 (11th Cir. 07/05/1990).) [**emphasis added**.] A concept that refers to the fact that a particular question of fact or law, one that has already been fully litigated by the parties in an action for which there has been a judgment on the merits, cannot be relitigated in any future action involving the same parties or their privies (persons who would be bound by the judgment rendered for the party). The term *issue preclusion* is synonymous with collateral estoppel, a doctrine which bars the relitigation of the same issue that was the basis of a finding or verdict in an action by the same parties or their privies in subsequent lawsuits involving the same or different causes of action. It is not, however, the same as the doctrine of res judicata which bars the relitigation of an entire cause of action, claim or demand, as opposed to an issue that makes up a cause of action, claim, or demand. (***West's Law Encyclopedia***) Collateral estoppel is closely related to the concept of

claim preclusion, which prevents parties relitigating the same cause of action after it has been decided by a judge or jury. *Res judicata* (literally - that which has been decided) can be used as the term for both concepts, or purely as a synonym for claim preclusion. Under the doctrine of res judicata, a judgment on the merits in a prior suit bars a second suit involving the same parties or their privies based on the same cause of action. Under the doctrine of collateral estoppel, on the other hand, the second action is upon a different cause of action and the judgment in the prior suit precludes relitigation of issues actually litigated and necessary to the outcome of the first action. *Res judicata* may be used as a defense in a second suit which involves the same claim as a prior suit, and is conclusive on all matters which were litigated as well as all matters which could have been litigated in the prior suit. In *collateral estoppel* the judgment is conclusive only regarding the issues which were actually litigated. In order for CE to apply, four factors must be met: The issues in the second suit are the same as in the first suit; The issues in the first suit must have been actually litigated; The issues in the first suit must have been actually decided; The issues must have been necessary to the court's judgment. (***Wikipedia***) The term *issue preclusion* is synonymous with Collateral Estoppel, a doctrine which bars the relitigation of the same issue that was the basis of a finding or verdict in an action by the same parties or their privies in subsequent lawsuits involving the same or different causes of action. It is not, however, the same as the doctrine of Res Judicata which bars the relitigation of an entire Cause of Action, claim or demand, as opposed to an issue that makes up a

cause of action, claim, or demand. (*The Legal Dictionary.*) The confusion generated by the use of the terms "collateral estoppel," "issue preclusion," "claim preclusion" and "res judicata" was addressed by Mr. Justice Blackmun in a recent Supreme Court opinion. The preclusive effects of former adjudication are discussed in varying and, at times, seemingly conflicting terminology, attributable to the evolution of preclusion concepts over the years. These effects are referred to collectively by most commentators as the doctrine of "res judicata." See ***Restatement (Second) of Judgments***, Introductory Note before ch. 3 (1982): 18 C. Wright, A. Miller & E. Cooper, ***Federal Practice and Procedure*** § 4402 (1981). Res judicata is often analyzed further to consist of two preclusion concepts: "issue preclusion" and "claim preclusion." Issue preclusion refers to the effect of a judgment in foreclosing relitigation of a matter that has been litigated and decided. See ***Restatement***, supra, § 27. This effect also is referred to as direct or collateral estoppel. Claim preclusion refers to the effect of a judgment in foreclosing litigation of a matter that never has been litigated, because of a determination that it should have been advanced in an earlier suit. Claim preclusion therefore encompasses the law of merger and bar. See id., Introductory Note before § 24. **This Court on more than one occasion has used the term "res judicata" in a narrow sense, so as to exclude issue preclusion or collateral estoppel**. See e.g., ***Allen v. McCurry***, 449 U.S. 90, 91 [101 S. Ct. 411, 413, 66 L. Ed. 2d 308] (1960); ***Brown v. Felsen***, 442 U.S. 127 [99 S. Ct. 2205, 60 L. Ed. 2d 767] (1979). When using that formulation, "res judicata" becomes virtually synonymous with "claim preclusion." In order to

avoid confusion resulting from the two uses of "res judicata," this opinion utilizes the term "claim preclusion" to refer to the preclusive effect of a judgment in foreclosing relitigation in matters that should have been raised in an earlier suit. For a helpful explanation of preclusion vocabulary, see ***Wright, et al.***, supra, § 4402. ***Migra v. Warren City School District Board of Education***, 465 U.S. 75, 104 S. Ct. 892, 894 n. 1, 79 L. Ed. 2d 56 (1984). Although the Supreme Court chose to use the term "claim preclusion" in Migra, we will use the term "res judicata" for the simple reason that all of the authority discussed in this opinion speaks in terms of res judicata. (***First Alabama Bank of Montgomery, N.A. v. Parsons Steel Inc.***, 747 F.2d 1367 (11th Cir. 12/04/1984).) We recognize that this doctrine is increasingly referred to as claim preclusion. See, e.g., ***In re Interlogic Trace, Inc.***, 200 F.3d 382, 386 (5th Cir. 2000); ***Heyliger v. State Univ. & Community College Sys. of Tenn.***, 126 F.3d 849, 852 (6th Cir.1997). This trend originated with the Supreme Court's discussion of the "seemingly conflicting terminology" in ***Migra v. Warren City School District Board of Education***, 465 U.S. 75, 77 n. 1, 104 S.Ct. 892, 894 n. 1, 79 L.Ed.2d 56 (1984). In ***Migra***, the Court decided to use the term "claim preclusion" instead of "res judicata," because the Court felt that "res judicata" had a narrow use, synonymous with "claim preclusion," and a broad use, which included the concepts of issue preclusion or collateral estoppel. See id. **We use res judicata here in the narrow sense as described in our past cases**. (***Jang v. United Technologies Corp.***, 206 F.3d 1147, 10 A.D. Cases 614 (11th Cir. 03/17/2000).) [**emphasis added.**] Although the Court did not

decide this question, it suggested that the full faith and credit requirements might differ for claim and issue preclusion: This case concerns res judicata only, and not the narrower principle of collateral estoppel. Whereas res judicata forecloses all that which might have been litigated previously, collateral estoppel treats as final only those questions actually and necessarily decided in a prior suit. (***Gjellum v. City of Birmingham***, 829 F.2d 1056 (11th Cir. 10/13/1987).) Res judicata or claim preclusion refers to the preclusive effect of a judgment in foreclosing relitigation of matters that were litigated or could have been litigated in an earlier suit. See, e.g., ***Migra v. Warren City School District Board of Education***, 465 U.S. 75, 77 n. 1, 104 S. Ct. 892, 894 n. 1, 79 L. Ed. 2d 56 (1984); ***Interstate Pipe Maintenance, Inc. v. FMC Corp.***, 775 F.2d 1495, 1497 (11th Cir. 1985). In order for the doctrine of res judicata to bar a subsequent suit, four elements must be present: (1) there must be a final judgment on the merits, (2) the decision must be rendered by a court of competent jurisdiction, (3) the parties, or those in privity with them, must be identical in both suits; and (4) the same cause of action must be involved in both cases. See, e.g., ***Hart v. Yamaha-Parts Distributors, Inc.***, 787 F.2d 1468, 1470 (11th Cir. 1986); ***Ray v. Tennessee Valley Authority***, 677 F.2d 818, 821 (11th Cir. 1982), cert. denied, 459 U.S. 1147, 103 S. Ct. 788, 74 L. Ed. 2d 994 (1983). Collateral estoppel or issue preclusion forecloses relitigation of an issue of fact or law that has been litigated and decided in a prior suit. There are several prerequisites to the application of collateral estoppel: (1) the issue at stake must be identical to the one involved in the prior litigation;

(2) the issue must have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in that action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding. See, e.g., ***Greenblatt v. Drexel Burnham Lambert, Inc.***, 763 F.2d 1352, 1360 (11th Cir. 1985); ***Precision Air Parts, Inc. v. Avco Corp.***, 736 F.2d 1499, 1501, 1504 (11th Cir. 1984), cert. denied, 469 U.S. 1191, 105 S. Ct. 966, 83 L. Ed. 2d 970 (1985). (***I.A. Durbin Inc. v. Jefferson National Bank***, 793 F.2d 1541 (11th Cir. 07/21/1986).) This court has articulated the following standard for issue preclusion: To claim the benefit of collateral estoppel the party relying on the doctrine must show that: (1) the issue at stake is identical to the one involved in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the determination of the issue in the prior litigation must have been "a critical and necessary part" of the judgment in the first action; and (4) the party against whom collateral estoppel is asserted must have had a full and fair opportunity to litigate the issue in the prior proceeding. ***Pleming v. Universal-Rundle Corp.***, 142 F.3d 1354, 1359 (11th Cir. 1998). In determining when an issue has been "actually litigated," the *Pleming* court cited with approval the Restatement's formulation that ***"[w]hen an issue is properly raised, by the pleadings or otherwise, and is submitted for determination, and is determined, the issue is actually litigated.***" Id. (quoting ***Restatement (Second) of Judgments*** § 27 cmt. d (1982)). (***Christo v. Padgett***, 223 F.3d 1324, 223 F.3d 1324 (11th Cir. 08/25/2000).) [emphasis

added.] Although some courts use different terminology, generally, "res judicata" refers to claim preclusion and "collateral estoppel" refers to issue preclusion. See ***Hart v. Yamaha-Parts***, 787 F.2d 1468, 1470 & 1473 (11th Cir. 1986). (***Thomas v. Evans***, 880 F.2d 1235 (11th Cir. 08/21/1989).) There is no dispute about the general principles of res judicata to be applied here. Under res judicata, also known as claim preclusion, a final judgment on the merits bars the parties to a prior action from re-litigating a cause of action that was or could have been raised in that action. See, e.g., ***Allen v. McCurry***, 449 U.S. 90, 94, 101 S. Ct. 411, 414 (1980). Res judicata may be properly applied only if certain prerequisites are met. In the Eleventh Circuit, a party seeking to invoke the doctrine must establish its propriety by satisfying four initial elements: (1) the prior decision must have been rendered by a court of competent jurisdiction; (2) there must have been a final judgment on the merits; (3) both cases must involve the same parties or their privies; and (4) both cases must involve the same causes of action. See ***Israel Discount Bank Ltd. v. Entin***, 951 F.2d 311, 314 (11th Cir. 1992); ***In re Justice Oaks II, Ltd.***, 898 F.2d 1544, 1550 (11th Cir. 1990). The court next determines whether the claim in the new suit was or could have been raised in the prior action; if the answer is yes, res judicata applies. See ***Justice Oaks***, 898 F.2d at 1552 (bankruptcy court's order of confirmation "`is an absolute bar to the subsequent action or suit between the same parties . . . in respect of every matter which was actually offered and received to sustain the demand, but also as to every [claim] which might have been presented'") (citation omitted). If even one of these elements is

missing, res judicata is inapplicable. See ***Hart v. Yamaha-Parts Distrib., Inc.***, 787 F.2d 1468, 1473 (11th Cir. 1986). At all times the burden is on the party asserting res judicata (here, Teledyne) to show that the later-filed suit is barred. See, e.g., ***Thorsteinsson v. M/V Drangur***, 891 F.2d 1547, 1551 (11th Cir. 1990). **But the test for "common nucleus of operative fact" as defined for purposes of res judicata is not simply one of whether the two claims are related to or may materially impact one another. The underlying core of facts must be the same in both proceedings. Quite simply: The issue is not what effect the present claim might have had on the earlier one, but whether the same facts are involved in both cases, so that the present claim could have been effectively litigated with the prior one**. ***In re Baudoin***, 981 F.2d 736, 743 (5th Cir. 1993). In short, we cannot say that the state court action arises out of a common nucleus of operative fact with the Chapter 11 case. Our task is to "compare the factual issues explored in the first action with the factual issues to be resolved in the second." ***Entin***, 951 F.2d at 315; see also ***Southeast Fla. Cable Inc. v. Martin County***, 173 F.3d 1332, 1336 (11th Cir. 1999) (res judicata inapplicable where "the factual premise of the present suit differs quite significantly from the prior one"); ***Manning***, 953 F.2d at 1359 (res judicata inapplicable where the second suit "d[oes] not involve the same factual situation" (internal quotation marks and brackets omitted)). Here, the connection between the core facts of the state court suit -- relating to the contractual and fiduciary terms governing the Kaiser/Teledyne relationship and the breakdown of that relationship -- and the core facts of the confirmation process -- relating to the

discharge of Piper's debts, the disposition of its assets, and the distribution of proceeds to its creditors -- is simply too attenuated to justify res judicata. This is especially true because the key facts underlying Kaiser's suit did not even exist at the time of the Chapter 11 filing and were never actually raised by the parties or discussed by the bankruptcy court during the Chapter 11 case. Teledyne simply cannot meet the "same cause of action" prerequisite to applying res judicata. (***Kaiser Aerospace and Electronics Corp. v. Teledyne Industries, Inc.,*** 244 F.3d 1289 (11th Cir. 03/23/2001).) [emphasis added.] In the Eleventh Circuit, "[t]he principal test for determining whether the causes of action are the same is whether the primary right and duty are the same in each case. In determining whether the causes of action are the same, a court must compare the substance of the actions, not their form." ***Citibank***, 904 F.2d at 1503 (citations omitted). "It is now said, in general, that if a case arises out of the same nucleus of operative fact, or is based upon the same factual predicate, as a former action, that the two cases are really the same 'claim' or 'cause of action' for purposes of res judicata." Id. We "must [therefore] look to the factual issues to be resolved [in ***Rubbermaid II***], and compare them with the issues explored in" ***Rubbermaid I***. Id. Did they arise out of the same transaction or series of transactions? Could Miller have brought his retaliation claim when he brought his qui tam claim? Should he have brought it earlier? Interestingly enough, both parties rely on ***Pleming v. Universal-Rundle Corp.***, 142 F.3d 1354 (11th Cir.1998) (***Pleming II***) to support their different positions. The plaintiff did not receive a job for which she applied. In 1993, she

filed an employment discrimination action against her employer under Title VII, 42 U.S.C. § 2000e, et seq., and 42 U.S.C. § 1981 for race and sex discrimination. See ***Pleming v. Universal-Rundle Corp.***, No. 1:94-cv-2004-RLV, slip op. (N.D.Ga. Nov. 22, 1995), aff'd without opinion, 100 F.3d 971 (11th Cir.1996) (***Pleming I***). During the course of litigation, in 1994, two additional positions became available. Pleming did not apply for either of these positions. The employer filled them with other applicants. Although Pleming did not amend her ***Pleming I*** complaint to include additional allegations of discrimination arising out of the 1994 incidents, she described them in her briefs. The magistrate Judge referred to them in his report and recommendation. Nevertheless, the district court granted summary judgment for the employer, finding that Pleming had failed to prove that the company's non-discriminatory explanation was pretextual. Id. Pleming filed suit again. See ***Pleming***, 142 F.3d at 1354. In ***Pleming II*** she based her 42 U.S.C. § 1981 action on the 1994 job openings. On the basis of res judicata, the district court dismissed her second complaint. A panel of this circuit reversed the dismissal. It found that the summary judgment in ***Pleming I*** did not have a res judicata effect so as to bar her ***Pleming II*** claim based upon the 1994 hiring decisions, which had not occurred when the ***Pleming I*** complaint was filed. "We explained that **the parties frame the scope of litigation at the time the complaint is filed and that a judgment is only conclusive regarding the matters that the parties might have litigated at that time but not regarding 'new rights acquired, pending the action which might have been, but which were not required to be**

litigated.' " Id. at 1357 (citing *Manning v. City of Auburn*, 953 F.2d 1355, 1360 (11th Cir.1992)). The *Pleming II* panel, quoting *Manning*, stated: [W]e do not believe that the res judicata preclusion of claims that "could have been brought" in the earlier litigation includes claims which arise after the original pleading is filed in the earlier litigation. Instead, we believe that, for res judicata purposes, **claims that "could have been brought" are claims in existence at the time the original complaint is filed or claims actually asserted by supplemental pleadings or otherwise in the earlier action**. Id. The real issue in *Pleming II* was whether the plaintiff had actually asserted her second claim in the course of briefing her first action. Miller cites *Pleming II*, however, for the proposition that, although his retaliation claim existed at the time he filed his qui tam action, the two claims are distinct. Comparing the substance of the actions, not their form, *Citibank*, 904 F.2d at 1503, his reading of the case is inapposite. Here it is undisputed that Miller's termination from Rubbermaid, the event giving rise to his retaliatory discharge claim in *Rubbermaid II*, occurred more than ten months before Miller filed his complaint in *Rubbermaid I*. For res judicata purposes, it was in existence at the time the original complaint was filed. *Pleming*, 142 F.3d at 1360. (*Ragsdale v. Rubbermaid, Inc.*, 193 F.3d 1235, 15 IER Cases 1193 (11th Cir. 10/27/1999).) [emphasis added.] **Res judicata, or claim preclusion, bars a party from relitigating a cause of action that was, or could have been, raised in a previous suit between the parties that resulted in a final judgment on the merits**. *In re Piper Aircraft Corp.*, 244 F.3d 1289, 1296 (11th Cir. 2001). A party seeking to invoke res

judicata must satisfy four elements: "(1) the prior decision must have been rendered by a court of competent jurisdiction; (2) there must have been a final judgment on the merits; (3) both cases must involve the same parties or their privies; and (4) both cases must involve the same causes of action." *In re Piper Aircraft*, 244 F.3d at 1296. If the party satisfies these requirements, the district court must determine whether the new claims could have been raised in the prior suit, and if so, the claims are barred by res judicata. Id. The burden of establishing that a current action is barred by res judicata is on the party asserting res judicata. Id. Summary judgment is a final decision on the merits. *United States v. One Colt Python .357 Cal. Revolver*, 845 F.2d 287, 289 (11th Cir. 1988). (*Williams v. SunTrust Banks, Inc.*, No. 07-15254 (11th Cir. 06/04/2008).) [**emphasis added**.] The question before us is one of collateral estoppel, also known as issue preclusion. The District Court based its judgment in the alternative on principles of res judicata or claim preclusion, but res judicata has no bearing upon this case. "The traditional res judicata case (frequently referred to as a 'claim preclusion' case) involves prior litigation between a plaintiff and a defendant, which is decided on the merits by a court of competent jurisdiction, and then a subsequent attempt by the prior plaintiff or defendant to relitigate the same cause of action against the same defendant or plaintiff, or perhaps to relitigate a different cause of action not previously litigated but which arises out of the same evidence. . . . If the defendant won, the plaintiff is barred from relitigating any matter that could have been litigated in the prior action." *McCorkle v. McElwey*, 576 So. 2d 202, 205

(Ala.1991) (emphasis added); see also ***Carlisle v. Phenix City Bd. of Educ.***, 849 F.2d 1376, 1381 (11th Cir. 1988). An Alabama trial court deciding an unemployment compensation case could not have decided Mitchell's Title VII claim. See ***Davis v. Department of Indus. Relations***, 465 So. 2d 1140, 1142 (Ala.Civ.App.1984) (evidence of an EEOC filing was irrelevant in an unemployment benefits case because the EEOC "proceeding appears to have had no direct relation to unemployment compensation benefits."). Because Mitchell's current claim could not have been brought in the earlier state court trial, res judicata has no application in this case. Cf. ***Copeland Constr. Co. v. All Phase-Elec. Wholesalers, Inc.***, 378 So. 2d 230, 232 (Ala.Civ.App.1979) (Earlier suit on a debt was not res judicata in a subsequent suit seeking a materialman's lien for the non-payment of the same debt because the materialman's lien suit could not have been litigated in the prior suit.), writ den., 378 So. 2d 233 (Ala.1979), overruled on other grounds, ***Ex parte Grubbs***, 571 So. 2d 1119 (Ala.1990). (Mitchell ***v. Humana Hospital-Shoals***, 942 F.2d 1581 (11th Cir. 09/30/1991).) I have reviewed thousands of cases, and they all prove that I did not violate the injunction. This PROVES BIAS.

978. **BIAS #835 -- CONTEMPT ORDER**

Sentence #229: "The Court of Appeals recognizes several prerequisites to the application of issue preclusion, including (1) the issue at stake must be identical to the one involved in the prior litigation; (2) the issue must have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in that action; and

(4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding. ***I.A. Durbin, Inc. v. Jefferson Nat'l Bank***, 793 F.2d 1541, 1549 (11th Cir. 1986)." [MIST-1_Doc.794--CONTEMPT ORDER, P.27.] This is irrelevant. Issue preclusion does not apply in this case. Only claim preclusion (res judicata) applies. Judge Evans used this issue preclusion argument because the law is completely and totally against her. She needed to find me in contempt for her own personal corrupt reasons, so she used bogus legal arguments to do so. This PROVES BIAS.

979. **BIAS #836 -- CONTEMPT ORDER Sentence #230:** "Once these requirements are met, issue preclusion is available not only to defend against a demand for relief, but also as offensive support for a demand for relief." CHARLES ALAN WRIGHT, ARTHUR R. MILLER, & EDWARD H. COOPER, ***FEDERAL PRACTICE AND PROCEDURE*** § 4416 (2d ed. 2002) (footnote omitted)." [MIST-1_Doc.794--CONTEMPT ORDER, P.27.] This is irrelevant. Issue preclusion does not apply in this case. Only claim preclusion (res judicata) applies. This proves bias.

980. **BIAS #837 -- CONTEMPT ORDER Sentence #231:** "'Issue preclusion, moreover, is available whether or not the second action involves a new claim or cause of action. If the second action involves the same claim or cause of action as the first, issue preclusion may be called direct estoppel. If a new claim or cause of action is involved, issue preclusion is commonly called collateral estoppel.' Id.

(internal footnote omitted)." [MIST-1_Doc.794--CONTEMPT ORDER, P.27.] This is irrelevant. Issue preclusion does not apply in this case. Only claim preclusion (res judicata) applies. This proves bias.

981. **BIAS #838 -- CONTEMPT ORDER**

Sentence #232: "For res judicata, in terms of issue preclusion, to apply, it is not necessary that all of the parties to the first lawsuit be the only parties in the second lawsuit. See id. § 4449 ('The bare fact that other parties were involved in the prior action and are not involved in the later action does not oust preclusion as to parties participating in both actions.')." [MIST-1_Doc.794--CONTEMPT ORDER, P.27.] This is irrelevant. Issue preclusion does not apply in this case. Only claim preclusion (res judicata) applies. This proves bias.

982. **BIAS #839 -- CONTEMPT ORDER**

Sentence #233: "The parties that must be identical are the parties claiming the preclusive benefits of res judicata from the decisions rendered in the first lawsuit and the party against whom the preclusive effects of res judicata are claimed in the second lawsuit. Both, or all, of *those* parties must be parties in the first *and* second lawsuits." [MIST-1_Doc.794--CONTEMPT ORDER, P.27.] This is false. Case law undeniably states that the parties must be IDENTICAL and in the same positions. This proves bias.

983. **BIAS #840 -- CONTEMPT ORDER**

Sentence #235: "The mere fact that Windsor included other party-defendants in the D.C. action,

or that the D.C. action did not include either Alcatraz entity as a party, does not mean that issues conclusively decided in the instant case have no preclusive effect in the D.C. litigation." [MIST-1_Doc.794--CONTEMPT ORDER, P.28.] This is false. The issue is claim preclusion and res judicata – not issue preclusion. Further, the DC Action is for the purpose of setting aside the December 22, 2009 Order, and neither res judicata nor issue preclusion apply. This proves bias.

984. **BIAS #841 -- CONTEMPT ORDER**

Sentence #236: "The preclusive effects of the res judicata doctrine extend, for the reasons stated above, to any issues fully and fairly litigated by Windsor and the Maid entities in the instant case and conclusively decided by this Court." [MIST-1_Doc.794--CONTEMPT ORDER, P.28.] This is false. The issue is claim preclusion and res judicata – not issue preclusion. Further, the DC Action is for the purpose of setting aside the December 22, 2009 Order, and neither res judicata nor issue preclusion apply. And, the res judicata doctrine does not apply as Judge Evans has indicated. Res Judicata applies only to the Final Judgment issued in December 2008. My actions do not meet the elements required for either claim preclusion or issue preclusion. This proves bias.

985. **BIAS #842 -- CONTEMPT ORDER**

Sentence #237: "The preclusive effects of res judicata also extend beyond the parties to the first lawsuit: "[i]n traditional terminology, it has been said that a judgment is binding on parties and persons in 'privity' with a party." rd. § 4448 (footnote omitted).

But to bind non-parties to an issue conclusively decided in a prior round lawsuit, modern courts tend to reject the technical requirement of privity with a party and instead assess "the specific setting [of the case], permitting free review when legal appraisal of the underlying relationships dominates the inquiry." rd. § 4449." [MIST-1_Doc.794--CONTEMPT ORDER, P.28.] This is false. Under claim preclusion, the parties have to be identical. Furthermore, attorneys are not covered by res judicata that applies to their clients. This proves bias.

986. **BIAS #843 -- CONTEMPT ORDER**

Sentence #238: "Here, the Maid entities' attorneys are "privies" to Maid and are entitled, by the doctrine of res judicata, to the benefit of the Court's order regarding Windsor's Rule 60(b) motion to reopen." [MIST-1_Doc.794--CONTEMPT ORDER, P.28.] This is false. Judge Evans has provided no legal authority for this. More important, res judicata does not apply to a post-judgment Rule 60(b) motion. This proves bias.

987. **BIAS #844 -- CONTEMPT ORDER**

Sentence #240: "The Maid entities' attorneys responded, on their clients' behalf, to Windsor's motion to reopen the case, which indiscriminately asserted claims of perjury, fraud, and discovery abuse against the Maid entities, who were parties to the lawsuit, and the Maid entities' attorneys, who were not [MIST-1_Doc. 362, ¶¶18-19, 57]." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is irrelevant. That is what attorneys do. It does not give them defenses for fraud upon the courts. Res judicata does not apply. This proves bias.

988. **BIAS #845 -- CONTEMPT ORDER**
Sentence #241: "The Court denied, on its merits, that motion by Windsor, as well as numerous other postjudgment motions that asserted claims against the Maid entities' non-party attorneys, as well as the Maid entities." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. Judge Evans never considered anything on its merits. This proves bias.

989. **BIAS #846 -- CONTEMPT ORDER**
Sentence #242: "To the extent that the Maid entities' attorneys benefitted from the disposition of Windsor's motions, which often asserted wrongdoing against them as well as against the Maid entities, the Court concludes that the Maid entities' attorneys bore a sufficiently close relationship to the Maid entities to benefit from the outcome of the motions decided in the Maid entities' favor-and, to the same extent, in the Maid entities' attorneys' favor." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. It does not give them defenses for fraud upon the courts. Res judicata does not apply. This proves bias.

990. **BIAS #847 -- CONTEMPT ORDER**
Sentence #243: "For these reasons, the Maid entities' attorneys may invoke the preclusive effects of the doctrine of res judicata in defending against the D.C. action." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. There is no legal justification for this. This proves bias.

991. **BIAS #848 -- CONTEMPT ORDER**
Sentence #244: "Finally, the claims or causes of

action asserted in the first and second lawsuits need not be identical for res judicata, in terms of issue preclusion, to apply." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. The claims have to be identical for res judicata to apply, and claim preclusion is the only doctrine that applies to the injunction. Dec #136 explains that none of the elements of issue preclusion are met in the instant case. This proves bias.

992. **BIAS #849 -- CONTEMPT ORDER**

Sentence #245: "For instance, a Rule 60(d) independent action may be precluded by a prior adverse outcome in a Rule 60(b) motion to reopen." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. See Exhibit 1 to Dec #136. A Rule 60(d) action or an independent action in equity is not prohibited by a prior Rule 60(b) motion, especially when the issues and the parties are totally different. This proves bias.

993. **BIAS #850 -- CONTEMPT ORDER**

Sentence #246: "Once the court that initially rendered judgment on the merits denies a litigant's Rule 60(b) motion to reopen the case, and the litigant either forgoes an appeal of that denial or that denial survives the litigant's appeal, the litigant may not obtain relief in another district court on the same facts by way of a Rule 60(d) independent action. See ***Winfield Assocs., Inc. v. Stonecipher***, 429 F.2d 1087, 1088-90 (10th Cir. 1970); ***Locklin v. Switzer Bros., Inc.***, 335 F.2d 331, 334-35 (7th Cir. 1964), cert. denied, 379 U.S. 962 (1965)." [MIST-1_Doc.794--CONTEMPT ORDER, P.29.] This is false. The trial judge, upon the basis of his findings

of fact, declined to consider the case under Rule 60(b) and determined that Stonecipher's attack was an independent equitable action for relief from the judgment. He further determined that Stonecipher had deliberately by-passed his legal remedy of appeal from the judgment and the subsequent order denying relief from the judgment under Rules 60(b) and 55(b) (2), both entered in the Northern District of Illinois, and denied any equitable relief.

"Although appellant now contends on appeal that Rule 60(b) imposes in the trial court the power to grant relief from the judgments entered in other United States District Courts, he ignores the point that relief under Rule 60(b) is addressed to the sound discretion of the court. (*Thomas v. Colorado Trust Deed Funds, Inc.*, 366 F.2d 136 (10th Cir. 1966); *Abel v. Tinsley*, 338 F.2d 514 (10th Cir. 1964).) Appellant has made no attempt to show an abuse of discretion. On the contrary, it appears that central to the trial judge's exercise of discretion is the fact that appellant deliberately bypassed his legal remedies of appeal from the default judgment and from the rendering court's order denying relief from the judgment." "We agree with the trial judge and absent a showing that he abused his discretion in denying relief under Rule 60(b), we are compelled to likewise treat this case not under Rule 60(b) but as an independent equitable action. Viewing this case as an independent equitable action precludes a determination of the issue posed by appellant as to whether Rule 60(b) is a proper means for attacking a judgment entered by a United States District Court sitting in another state." "As a practical matter, it is not important whether the trial judge considered the attack upon the default judgment under Rule 60(b)

or as an independent equitable action. A full evidentiary hearing was had, appellant was permitted to present evidence on every ground asserted, after which the trial judge, in the exercise of his judicial and equitable discretion, denied relief." "When this issue was presented to the trial judge in the Northern District of Illinois, apparently he rejected it because he did not consider that an appearance had been entered. In addition, from his comments made during the course of the hearing, he could not conclude that the case presented a situation of excusable neglect. The Kansas trial judge in denying relief to Stonecipher put stress upon his failure to pursue his adequate and available remedy of appeal and expressly found that Stonecipher had deliberately bypassed the remedy of appeal. These are proper circumstances to consider in this independent equitable action." ***(Winfield Assocs., Inc. v. Stonecipher***, 429 F.2d 1087, 1088-90 (10th Cir. 1970).) This erroneous citation of case law demonstrates bias.

994. **BIAS #851 -- CONTEMPT ORDER Sentence #248:** "Windsor took that claim, which differed only in technical terms from his Rule 60(b) motion to reopen, to the District Court for the District of Columbia." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is absolutely false. The issues were totally different between the 60(b) motions and the 60(d) action. I never filed a Rule 60 motion of any type in MIST-1 to set aside the December 22, 2009 Order. That was only filed in the DC Action. This proves bias.

995. **BIAS #852 -- CONTEMPT ORDER**

Sentence #249: "But the technical distinctions between Windsor's previously-denied Rule 60(b) motion to reopen and his Rule 60(d) independent action are immaterial for issue-preclusive purposes." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. Issue preclusion does not apply. None of the elements of issue preclusion are met in the instant matter. My Rule 60(b) motion did not argue fraud upon the court. See MIST-1_Doc.325 and MIST-1_Doc.390. None of the arguments are similar. This proves bias.

996. **BIAS #853 -- CONTEMPT ORDER**

Sentence #250: "The adverse ruling that this Court rendered in May 2009, on materially similar arguments, issues, and claims for relief that Windsor subsequently made in his Rule 60 (d) independent action, precludes the relief that Windsor seeks from the federal courts in the District of Columbia." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. Issue preclusion does not apply. My Rule 60(b) motion did not argue fraud upon the court. None of the elements of issue preclusion are met in the instant matter. See MIST-1_Doc.325 and MIST-1_Doc.390. None of the arguments are similar. This proves bias.

997. **BIAS #854 -- CONTEMPT ORDER**

Sentence #251: "The causes of action need not be identical for preclusion to apply." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. The issue is claim preclusion and res judicata – not issue preclusion. The causes of action must be IDENTICAL for claim preclusion to apply. None of

the elements of issue preclusion are met in the instant matter. None of the arguments are similar. This proves bias.

998. **BIAS #855 -- CONTEMPT ORDER**

Sentence #252: "The real question here is whether Windsor violated the command language of the injunction, which prohibited filing a new lawsuit arising from the same nucleus of operative facts." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. A search on versuslaw.com for "command language of the injunction" returned NO results. This phrase has apparently never been used in a case before. "Turning to Appellants' alternate remedy, the district court correctly determined that an injunction ordering the City not to discriminate in future annexation decisions would not satisfy the specificity requirements of the Federal Rules of Civil Procedure. Under Rule 65(d), "[e]very order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; [and] shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained." Fed.R.Civ.P. 65(d). This specificity requirement is necessary "to protect those who are enjoined 'by informing them of what they are called upon to do or to refrain from doing in order to comply with the injunction or restraining order.' " ***Hughey v. JMS Dev. Corp.***, 78 F.3d 1523, 1531 (11th Cir.1996) (quoting 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, ***Federal Practice and Procedure*** § 2955 (2d ed.1995) (footnotes omitted)). Thus, an injunction must "contain 'an operative command capable of enforcement.' " Id. (quoting ***International***

Longshoremen's Ass'n v. Philadelphia Marine Trade Ass'n, 389 U.S. 64, 73-74, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967)). For example, in *Payne v. Travenol Labs., Inc.*, 565 F.2d 895 (5th Cir.1978), the former Fifth Circuit considered an injunction that prohibited "discriminating on the basis of color, race, or sex in employment practices or conditions of employment." Id. at 897. Invalidating the injunction for failure to satisfy Rule 65(d)'s specificity requirement, the Court reasoned that where the terms of the injunction are as general as Title VII itself, the injunction does no more than instruct a defendant to "obey the law." Id. at 898. A court is incapable of enforcing so broad and vague an injunction." (*Burton v. City of Belle Glade*, 178 F.3d 1175 (11th Cir. 06/25/1999).) "A preliminary injunction is vague only when "the delineation of the proscribed activity lacks particularity or when containing only an abstract conclusion of law, not an operative command capable of enforcement." *CF&I Steel Corp. v. United Mine Workers of America*, 507 F.2d 170, 173 (10th Cir. 1974) (internal quotation marks omitted). Here, the preliminary injunction provided that the state was barred from "any further application and enforcement of the Kansas motor vehicle registration or titling laws against the [tribe] and any persons who operate or own a vehicle registered and titled under [the tribal motor vehicle code]. This order applies to vehicles driven both on and off of the [tribe's] reservation." Aplts' App. vol. II, at 143 (district court order, filed Oct. 13, 1999). The order also stated that "[t]his injunction is not meant to have any effect on cases which are currently pending before any Kansas state court and is not meant to have any effect on Kansas traffic

laws that do not deal directly with vehicle registration, vehicle license plates[,] and motor vehicle titles." Id." (***Prairie Band of Potawatomi Indians v. Pierce***, 253 F.3d 1234 (10th Cir. 06/25/2001).) "The court, in view of the above conclusions, properly finding irreparable damage unless future strikes as to three types of disputes were enjoined, and that CF&I would suffer more from denial of injunctive relief than the Union from its issuance, ordered that "Local Union 9856 of the United Mine Workers of America, the officers and members of Local Union 9856 of the United Mine Workers of America, and all persons acting in concert and participation with them, be and they hereby are restrained and enjoined from engaging in a strike, work stoppage, interruption of work, or picketing at the Allen Mine of the CF&I Steel Company at Weston, Colorado, over disputes arising from employee suspensions, employee discharges, and work assignments, during the remaining life of the National Bituminous Coal Wage Agreement of 1971." The Union attacks the decree on various fronts. It first argues that the injunction is impermissibly vague under Fed. R. Civ. P. 65(c). We do not find it so. "[A] decree is vague when the delineation of the proscribed activity lacks particularity," 11 C. Wright & A. Miller, Federal Practice and Procedure § 2955, at 546 (1973) or when containing "only an abstract conclusion of law, not an operative command capable of 'enforcement.'" ***International Longshoremen Local 1291 v. Marine Trade Ass'n.***, 389 U.S. 64, 74, 19 L. Ed. 2d 236, 88 S. Ct. 201 (1967). Here we find enjoined specific concerted activity, namely, "strike, work stoppage, interruption of work, or picketing at the Allen mine."

These are terms of reasonably specific content in the "common law of the shop." Cox, ***Reflections Upon Labor Arbitration***, 72 Harv.L.Rev. 1482, 1498-9 (1959). The situations, moreover, of applicability are spelled out; that is, "over disputes arising from employee suspensions, employee discharges, and work assignments," The decrees in ***Old Ben Coal Corp. v. Local 1487, Mine Workers***, 457 F.2d 162 (7th Cir. 1972) and **N.Y. Tel. Co. v. Communications Workers**, 445 F.2d 39 (2nd Cir. 1971), both relied upon by the Union, lack such specificity) with respect to all of which areas, we note, strikes had occurred in the past and, the court found, were "likely to [recur] unless prohibited by order of this court." We find no incapacitating vagueness in the decree." (***CF&I Steel Corp. v. United Mine Workers of America***, 507 F.2d 170 (10th Cir. 12/10/1974).) "In ***Hughey***, the developer of a residential subdivision in Georgia was enjoined from discharging storm water into the waters of the United States "if such discharge would be in violation of the Clean Water Act." Every rainstorm that blew through Gwinnett County caused some "discharge" that was beyond the developer's control. Vacating the injunction, the Eleventh Circuit described the injunction as "incapable of enforcement as an operative command," because the injunction failed to specify how the defendant should prevent discharges and comply with the injunction. "Was [the defendant] supposed to stop the rain from falling? Was [the defendant] to build a retention pond to slow and control discharges? Should [the defendant] have constructed a treatment plant to comply with the requirements of the [Clean Water Act]?" The injunction's lack of specificity resulted in neither the

defendant's nor the court's knowing what the injunction required of the defendant, other than the defendant's obeying the law (which the defendant was already obligated to do perforce the governing statutes of the United States, which apply without the aid of an injunction). See also ***S.E.C. v. Smyth***, 420 F.3d 1225, 1233 n.14 (11th Cir. 2005); ***Posey v. Alternative Home Health Care of Lee County, Inc.***, 2008 WL 2047935, *3 (M.D. Fla. 2008); ***E.E.O.C. v. Fla. Institute for Neurologic Rehabilitation, Inc.***, 2009 WL 3816859 (M.D. Fla. 2009); but c.f ***Hughey***, 78 F.3d at 1533 (stating that, because the plaintiff deserves no relief, the discussion of the proper form of relief, Rule 65(d), and an obey-the-law injunction "may be correct, or it may be incorrect, but it is certainly dicta.") (Carnes, J., concurring in part). In another example, the former Fifth Circuit vacated an injunction prohibiting "discriminating on the basis of color, race, or sex in employment practices or conditions of employment." ***Payne v. Travenol Labs, Inc.***, 565 F.2d 895, 897 (5th Cir. 1978). Citing the serious consequences flowing from a violation of an injunction and finding that the injunction was only slightly more specific than the text of Title VII, *Pay*ne finds that the injunction is unenforceable." (***Securities and Exchange Commission v. Sky Way Global, LLC***, No. 8:09-cv-455-T-23TBM (M.D.Fla. 04/22/2010).) The injunction in MIST-1 is totally vague. Judge Evans' ridiculous attempts to claim otherwise prove bias.

999. **BIAS #856 -- CONTEMPT ORDER Sentence #253:** "Without a doubt, he did." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. This proves bias.

1000. **BIAS #857 -- CONTEMPT ORDER**

Sentence #254: "The allegations underlying Windsor's previously-denied Rule 60(b) motion to reopen in this Court and the allegations underlying Windsor's Rule 60(d) independent action in the District Court for the District of Columbia, to the extent that the independent action pertains to the Maid of the Mist entities, are materially indistinguishable." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is outrageously false. The claims are completely and totally different. This is easy for anyone to determine by examining the motion and the DC action. See MIST-1 Doc. 325 and DC Action Doc.1. This proves bias.

1001. **BIAS #858 -- CONTEMPT ORDER**

Sentence #255: "Both involve broad assertions of fraud, perjury and corruption by Maid and its attorneys." [MIST-1_Doc.794--CONTEMPT ORDER, P.30.] This is false. Absolutely false. This proves bias.

1002. **BIAS #859 -- CONTEMPT ORDER**

Sentence #256: "These factual assertions were rejected by this Court when it denied Windsor's Rule 60(b) motion to reopen in May 2009." [MIST-1_Doc.794--CONTEMPT ORDER, P.30-31.] This is false. This proves bias.

1003. **BIAS #860 -- CONTEMPT ORDER**

Sentence #257: "This decision was affirmed on appeal." [MIST-1_Doc.794--CONTEMPT ORDER, P.31.] This is false. This proves bias.

1004. **BIAS #861 -- CONTEMPT ORDER**

Sentence #258: "In sum, Windsor's Rule 60(d) independent action, filed in the District Court for the District of Columbia, violated the filing injunction by rehashing and reasserting claims against the Maid of the Mist entities that this Court previously considered in full and denied on their merits." [MIST-1_Doc.794--CONTEMPT ORDER, P.31.] This is false. Both claim preclusion and issue preclusion apply to the Final Judgment issued in December 2008. None of the claims in the DC Action existed at that time and would be subject to either claim preclusion or issue preclusion. See all of the case law attached as Exhibit 1 to Dec #136. This proves bias.

1005. **BIAS #862 -- CONTEMPT ORDER**

Sentence #259: "Those claims arose from the same group of operative facts as claims previously made in the instant case." [MIST-1_Doc.794--CONTEMPT ORDER, P.31.] This is false. Both claim preclusion and issue preclusion apply to the Final Judgment issued in December 2008. None of the claims in the DC Action existed at that time and would be subject to either claim preclusion or issue preclusion. See all of the case law attached as Exhibit 1 to Dec #136. Without giving yet another explanation of these doctrines, the "operative facts" are the claims that existed on August 29, 2005 when MIST-1 was filed. This proves bias.

1006. **BIAS #863 -- CONTEMPT ORDER**

Sentence #261: "Windsor implicitly argues that, as a pro se litigant, he should not be held in contempt for violating the filing injunction. The Supreme Court

has held that [t] he absence of wilfulness does not relieve from civil contempt. Civil as distinguished from criminal contempt is a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance. Since the purpose is remedial, it matters not with what intent the defendant did the prohibited act. ***McComb v. Jacksonville Paper Co.***, 336 U.S. 187, 191 (1949) (internal citations omitted). See also ***Ga. Power Co. v. Nat'l Labor Relations Bd.***, 484 F.3d 1288, 1291 (11th Cir. 2007) ("Our focus in a civil contempt proceeding is not on the subjective beliefs or intent of the alleged contemners in complying with the order, but whether in fact their conduct complied with the order at issue.") (quotation omitted); ***Smith v. Sullivan***, 611 F.2d 1050, 1052 (5th Cir. 1980) (indicating distinction between civil and criminal contempt based on relevance of contemnor's intent to each)." [MIST-1_Doc.794--CONTEMPT ORDER, P.31.] This is false. ***McComb*** is a 1949 case. 1979, 1988, 2000, 2002, and 2007 Eleventh Circuit cases provide otherwise: See ***McGregor v. Chierico***, 206 F.3d 1378, 1383 (11th Cir. 2000); ***NLRB v. Crockett-Bradley, Inc.***, 598 F.2d 971, 975 (5th Cir. 1979). ***Jordan v. Wilson***, 851 F.2d 1290, 1292 (11th Cir. 1988) (per curiam). ***Riccard v. Prudential Ins. Co.***, 307 F.3d 1277, 1296 (11th Cir. 2002). ***NBA Properties, Inc. v. Gold***, 895 F.2d 30, 32 (1st Cir. 1990). ***Howard Johnson Co., Inc. v. Khimani***, 892 F.2d 1512, 1516 (11th Cir. 1990). ***Georgia Power Co. v. National Labor Relations Board***, 484 F.3d 1288 (11th Cir. 04/17/2007). ***United States v. Timmons***, 607 F.2d 120, 123 (5th Cir. 1979); ***Clark v. Boynton***, 362 F.2d 992, 993-94 (5th Cir. 1966); ***Afro-American***

Patrolmen's League v. City of Atlanta, 817 F.2d 719 (11th Cir. 05/27/1987); *Lewis v. S.S. Baune*, 534 F.2d 1115, 1119 (5th Cir. 1976); *In re Bradley*, 588 F.3d 254 (5th Cir. 11/11/2009); *Southern Railway v. Lanham*, 403 F.2d 119, 124 (5th Cir. 1968); *In re Stewart*, 571 F.2d 958 (5th Cir. 04/24/1978). The difference may have importance in determining the type of notice required, See Fed.R.Crim.P. 42(b), the applicable standard of proof, Compare *Northside Realty Associates, Inc. v. United States*, 605 F.2d 1348, 1352 n. 8 (5th Cir. 1979) (civil contempt proceeding reviewed under clear and convincing standard) With *In re Stewart*, 571 F.2d 958, 965 (5th Cir.) (criminal contempt requires proof beyond reasonable doubt), the relevance of the validity of the underlying order, *ITT Community Development Corp. v. Barton*, 569 F.2d 1351, 1356 (5th Cir. 1978), and, among other considerations, the relevance of intent, Compare *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191, 69 S. Ct. 497, 93 L. Ed. 599 (1949) (intent unimportant to civil contempt) With *In re Joyce*, 506 F.2d 373, 378 (5th Cir. 1975) (criminal contempt requires "willful, contumacious, or reckless state of mind"). Here there was some confusion as to whether the contempt proceeding was civil or criminal. Although the district court clearly characterized the proceeding as civil, that characterization is not conclusive. *Lewis v. S. S. Baune*, 534 F.2d 1115, 1119 (5th Cir. 1976). What is conclusive is the apparent purpose of the trial court in issuing the contempt judgment. *Shillitani v. United States*, 384 U.S. 364, 368-70, 86 S. Ct. 1531, 16 L. Ed. 2d 622 (1966). If its purpose was "coercive" or "remedial," the contempt judgment being designed to enforce compliance with a court order or to

compensate a party injured by noncompliance, then the proceeding was civil. Id.; *United States v. Rizzo*, 539 F.2d 458, 463 (5th Cir. 1976). Cf. *In re Nevitt*, 117 F. 448, 461 (8th Cir. 1902) (civil contemnors "carry the keys of their prison in their own pockets"). If its purpose was "punitive," the contempt judgment being designed to vindicate the authority of the court and not terminating upon compliance with a court order, then the proceeding was criminal. *United States v. United Mine Workers*, 330 U.S. 258, 302, 67 S. Ct. 677, 91 L. Ed. 884 (1947); *In re Stewart*, 571 F.2d at 963. See generally 8B *Moore's Federal Practice* P 42.02(2) (rev. ed. Sept. 1979). Here both purposes are evident. The district court seems to have acted with a punitive purpose in citing each day in which the inmate population exceeded 500 as a separate contempt and in imposing for each such contempt a nonrecurring fine, to be paid to the court rather than to the inmate-plaintiffs, and a definite period of imprisonment. But the court revealed a coercive purpose in ruling at the time of the entrance of the judgments that the fines and sentences of imprisonment would actually be imposed only if noncompliance reoccurred before September 10, 1978. The district court also delayed imposition of the contempt judgments pending the outcome of the defendants' previously-filed appeal of the 500-inmate limit and stated that if the limit was vacated the judgments would be "totally and permanently withdrawn." Because the 500-inmate limit has been vacated, See *Smith v. Sullivan*, 611 F.2d 1039 (5th Cir. 1980) (decided simultaneously with this case), the issue presented here May be mooted if the district court, as it indicated, "totally and permanently" withdraws the judgments of contempt.

However, at this stage of the litigation, the contempt issue is very much alive. Although the proceeding seems best characterized as a criminal one, See ***In re Stewart***, 571 F.2d at 964 n.4 (**where contempt order is partly remedial and partly punitive, punitive feature fixes its character for purposes of review**), it is unnecessary to dwell on the issue in this case. [**emphasis added**.] Viewed as criminal convictions, the court's contempt judgments are clearly invalid. The court failed to notify the defendants, as required by Fed.R.Crim.P. 42(b), that they were to be prosecuted for criminal contempt. See ***United States v. Rizzo***, 539 F.2d at 464-65. It also failed to make the necessary finding of contumacious intent. See ***In re Joyce***, 506 F.2d at 378. There was no showing of such intent, much less evidence establishing it beyond a reasonable doubt. Moreover, under criminal contempt statutes, the court had the power only to impose fines or imprisonment, not both. See ***United States v. Barnette***, 546 F.2d 187, 193 (5th Cir.), Cert. denied, 434 U.S. 822, 98 S. Ct. 65, 54 L. Ed. 2d 79 (1977). (***Smith v. Sheriff Mike Sullivan***, 611 F.2d 1050 (5th Cir. 02/14/1980).) Judge Evans cited the law absolutely erroneously; her contempt sanctions were criminal, and she did not provide the proper due process nor did she apply the correct legal standard. This proves bias.

1007. **BIAS #864 -- CONTEMPT ORDER Sentence #264**: "He could easily afford counsel, but he prefers to engage in pro se litigation as an avocation." [MIST-1_Doc.794--CONTEMPT ORDER, P.31-32.] This is absolutely false and malicious. This proves bias against pro se parties, a constant theme of Judge Evans throughout the case.

1008. **BIAS #865 -- CONTEMPT ORDER**

Sentence #267: "His claim that he did not understand the Court's December 22 filing injunction is not genuine." [MIST-1_Doc.794--CONTEMPT ORDER, P.32.] This is false. This is an outrage! This proves bias.

1009. **BIAS #866 -- CONTEMPT ORDER**

Sentence #268: "Windsor knew that his conduct in filing his complaint in the District of Columbia was extremely reckless and that the chances were high that he was violating the terms of the filing injunction." [MIST-1_Doc.794--CONTEMPT ORDER, P.32.] This is false. There was no such evidence before the Court. This proves bias.

1010. **BIAS #867 -- CONTEMPT ORDER**

Sentence #269: "Clear and convincing evidence, as described above, shows that Windsor's conduct displayed contempt for this Court." [MIST-1_Doc.794--CONTEMPT ORDER, P.32.] This is false. There was no evidence whatsoever other than my evidence. This proves bias.

1011. **BIAS #868 -- CONTEMPT ORDER**

Sentence #273: "The Court has reviewed the portions of the Maid entities' motions requesting attorneys' fees incurred as a direct result of (1) bringing the motions for contempt and sanctions and (2) review of Windsor's allegations in the District of Columbia action [MIST-1_Doc. 739 at 31; MIST-1_Doc. 741]." [MIST-1_Doc.794--CONTEMPT ORDER, P.33.] This is false. Based upon the statements of Judge Evans, she did not review the DC Action. This proves bias.

1012. **BIAS #869 -- CONTEMPT ORDER**

Sentence #274: "The Court has also reviewed the sworn declarations of Carl H. Anderson, Jr. and the exhibits detailing the attorneys' fees sought from Windsor, all of which the Maid entities attached to their motions [MIST-1_Doc. 739 at 31, MIST-1_Doc. 741]." [MIST-1_Doc.794--CONTEMPT ORDER, P.33.] This may be true. I actually doubt that she did. Judge Evans went through this charade of a hearing for the sole purpose of finding me in contempt. The facts did not matter. This proves bias.

1013. **BIAS #870 -- CONTEMPT ORDER**

Sentence #281: "For the foregoing reasons, the Court FINDS and CONCLUDES that Defendant William M. Windsor is in contempt of court for filing his "Verified Complaint" in the United States District Court for the District of Columbia against Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd., and its attorneys, Carl H. Anderson, Jr. and Hawkins & Parnell LLP." [MIST-1_Doc.794--CONTEMPT ORDER, P.34.] This is what she wrote, but this is FALSE. This proves bias.

1014. **BIAS #871 -- CONTEMPT ORDER**

Sentence #283: "As stated above, the filing injunction in the December 22 order not intended to enjoin Windsor from filing any materials in the of Appeals, and does not require Windsor to obtain the undersigned's permission before filing notices of appeal of this Court's orders." [MIST-1_Doc.794--CONTEMPT ORDER, P.35.] This is false, at least

this is not consistent with the Order to Show Cause, the inclusion of Ryan Windsor and Alcatraz, and the statements at the beginning of the hearing. This absolutely proves bias and gross mistreatment by Judge Evans.

1015. **BIAS #872 -- CONTEMPT ORDER Sentence #288:** "That is within the discretion of that Court. Nonetheless, Windsor owes the filing of the dismissal with prejudice to the Maid entities." [MIST-1_Doc.794--CONTEMPT ORDER, P.35 -- Footnote 9.] This is true as to the discretion of the court. This is false as to Windsor owing a filing of a dismissal except by this erroneous Contempt Order. This proves bias.

1016. **BIAS #873** -- What Judge Evans has done in the CONTEMPT ORDER is very clear to me. She simply ignored the facts and the law as she always does. She could care less what the facts and the law are. She has one and only one goal, and that is to damage me regardless. She spent more than half of the so-called Fact section discussing issues that were not at all relevant to contempt and were not discussed at the hearing. The Fact section fails to address any of the facts that I presented. It was clear to me at the hearing that Judge Evans was only going through the motions because her only interest was in illegally punishing me. The CONTEMPT ORDER makes her motives even clearer. She intentionally lies and ignores the legal precedents that theoretically bind her. This proves bias.

1017. **BIAS #874** -- I know that Judge Orinda D. Evans ("Judge Evans") made these false statements intentionally. She committed perjury intentionally so she could damage me. When you read the CONTEMPT ORDER and compare it to the Transcripts of the hearing, it is clear that she ignored all of the facts that I presented. She cited essentially no fact presented by the Plaintiffs, because they presented little or nothing. As to the law, it is clear that I so soundly defeated the claim that I had violated the DECEMBER 22, 2009 INJUNCTION ORDER, as far as res judicata, that she was forced to make something up. So, she resurrected an extinct claim that issue preclusion is part of res judicata and tried to claim that it applied. My filing of the DC Lawsuit does not meet the elements required for issue preclusion. But, even more important, Judge Evans has tried to claim that "nucleus of operative facts" applies to "issue preclusion," but it does not. I have searched 5 million cases at versuslaw.com to prove it. A 33-year veteran of the federal bench does not make "mistakes" every time she enters an order. There is no way that this Court can conclude anything but that this was all caused, as I know it was, by the bias and criminal dishonesty of Judge Evans.

1018. **BIAS #875** -- I stated that I could not pay the sanctions. I was denied the opportunity to present my documents as evidence. The information presented by Mr. Carl Hugo Anderson was false and/or erroneous. This demonstrates bias.

1019. **BIAS #876** -- Judge Evans admits the legal requirement that "an ordinary person reading

the court's order should be able to ascertain from the document itself exactly what is proscribed." (MIST-1_Doc.794--CONTEMPT ORDER, P. 19-20.) Then she outrageously claims that "claims arising from the same factual predicate or nucleus of operative facts as the instant case" and "would be barred by the doctrine of res judicata" should be comprehensible to an ordinary citizen. This is one of the more ridiculous instances of perjury by Judge Evans. The December 22, 2009 injunction order is totally ambiguous. It fails miserably on the absolute requirement that the proscribed conduct must be clear and unambiguous. This demonstrates bias.

1020. **BIAS #877** -- Res judicata does not apply to independent actions in equity or Rule 60(d) actions involving judges in other actions or to appeals. Rule 60(d) does not limit a court's power to entertain an independent action to relieve a party from a judgment, order, or proceeding; or set aside a judgment for fraud on the court. A Rule 60(d) action and an independent action in equity are both direct attacks, not collateral attacks. This demonstrates bias.

1021. **BIAS #878** -- In a civil contempt proceeding, the petitioning party bears the burden of establishing by "clear and convincing" proof that the underlying order was violated. ***Newman v. Graddick***, 740 F.2d 1513, 1525 (11th Cir.1984); ***Piambino v. Bestline Products, Inc.***, 645 F. Supp. 1210, 1213 (S.D.Fla. 1986). (***Howard Johnson Company, Inc. v. Khimani***, 892 F.2d 1512 (11th Cir. 01/29/1990).) Judge Evans ignored this. This demonstrates bias.

1022. **BIAS #879** -- The "nucleus of operative fact" pertains only to facts and causes of action that existed (or could have been claimed) at the time this action was filed on August 29, 2005. Therefore, there is no "nucleus of operative fact" issue with my appellate actions or the DC Action. I have literally many hundreds of cases that establish all of this. I learned that claims that "could have been brought" may be included, but he then confirmed through several cases that this does not include claims that arose after the original complaint was filed in the prior action. (See ***Sherrod v. School Board of Palm Beach County***, No. 07-13747 (11th Cir. 04/07/2008). Judge Evans raised this, and I explained the law while on the witness stand.

1023. **BIAS #880** -- **JUDGE EVANS SHOULD HAVE RECUSED HERSELF.** When discussing recusal on April 19, 2010, Judge Evans admitted that it would be appropriate because of the things that have been said and the appearance of bias: "... because of the various allegations, the numerous allegations that you, Mr. Windsor, have made against me that I'm corrupt and unfair and have committed treason, and -- I don't recall all the other phrases. I'm mindful of that. And I don't wish to do anything that would give the appearance to you or to anybody else that I'm picking on you because you have made some rather flamboyant allegations against me." 28 U.S.C. 455 (a) REQUIRES that a judge recuse herself: "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." It is the appearance of bias that counts, and Judge Evans

has admitted "the appearance." [MIST-1_768, 778, 798, 800.] The justification for not recusing herself was the burden it would place on another judge. However, there is no burden in a contempt hearing. The only facts are those presented at the hearing, and the decision does not depend upon anything else but that. Judge Evans is a Defendant in the DC Action, and it was improper for her to sit in judgment on an issue that affects her so personally. There has been severe criticism of Judge Evans as a judge. As a result, she is disqualified from presiding at the contempt trial and hearings unless I consent, and I do not consent. "No man can be a judge in his own case." (See ***Caperton v. A. T. Massey Coal Co., Inc.***, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (U.S. 06/08/2009).) Judge Evans refused to recuse herself, and this demonstrates bias.

1024. **BIAS #881** -- The Contempt Order requires me to take action to purge contempt that was not covered by the December 22, 2009 Injunction Order -- dismiss Hawkins & Parnell and attorney Carl Hugo Anderson from the DC Action. H&P and Anderson were not mentioned in the December 22, 2009 injunction. The injunction only applied to Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Limited. Judge Evans erred by requiring me to take such action. H&P and Anderson are necessary parties to the DC Action, an independent action in equity to set aside orders in the district court in the Northern District of Georgia for fraud upon the courts. These officers of the court are essential parties to the action. Eliminating H&P and Anderson from the DC Action

guts my action for fraud upon the courts. This demonstrates bias.

1025. **BIAS #882** -- The Contempt Order of April 23, 2010 requires me to take action to provide relief to the Plaintiffs when they had an adequate remedy at law. This demonstrates bias.

1026. **BIAS #883** -- At the Hearing on the Order to Show Cause, Mr. Carl Hugo Anderson told Judge Evans that the Lanham Act had not been an issue in this matter. This was false. Plaintiffs' Updated Brief in Support of their Motion for TRO [MIST-1_Doc.6]. Page 6 states "Defendants have violated the Lanham Act...." The Transcript of the Preliminary Injunction Hearing on April 11 and 12, 2006 [MIST-1_Docs.35, 36, 27] pages 47-51 and 156-166 address the Lanham Act claim. Judge Evans ignored this. This demonstrates bias.

1027. **BIAS #884** -- At the Hearing on the Order to Show Cause, Mr. Carl Hugo Anderson claimed the contracts filed under seal were not relevant. He told Judge Evans that the contracts between the Plaintiffs and the Niagara Parks Commission and New York State did not contain terms that limited the retail price of tickets charged to passengers. This was a false representation that Mr. Anderson knew was false. In the 1982 Canadian Lease that was voided in 1989, page 6 states: "17. THE COMPANY AGREES that any "increase in the fares to be charged to passengers using the sight-seeing boats shall be subject to the written approval of the Parks Commission." In the Niagara Parks Commission contract from 1989 that probably was

not filed under seal as it should have been, page 11 states: "(vi) The Tenant agrees that any increase in the fares to be charged to passengers using the sight-seeing boats shall be subject to the advance written approval of NPC." These contracts contain no clause such as the one Mr. Anderson tried to deceive Judge Evans into believing existed. Plaintiffs were in breach on $1.3 billion in contracts. This provides motive for their illegal actions. . Judge Evans ignored this. This demonstrates bias.

1028. **BIAS #885** -- Mr. Anderson has made hundreds of false statements to the courts in 2009 and 2010, not to mention the many hundreds from 2005 through 2008. In several Eleventh Circuit filings, Mr. Anderson has stated: "Apparently at least in his own mind, he [Windsor] could not be the same person who testified that he sold consumers worthless vouchers as part of his campaign to injure Maid." This is false. Mr. Anderson knows this is false. This statement was made to deceive the courts. This is perjury. There is no factual basis whatsoever for this statement. Ask Mr. Anderson to produce any proof of this. He will not be able to. The Plaintiffs and their attorneys have made up claims again and again and again and again. They are the most dishonest people that I have ever encountered. . Judge Evans ignored this. This demonstrates bias.

1029. **BIAS #886** -- Plaintiffs failed to support by affidavit the statements made in ¶¶18, 20, 21, 23, 25, 26, 27, 29, 31, 32, 34, 36, 37, 39, 41, 42, 50, 51, 52 of the Motion to Show Cause. I moved that these paragraphs be stricken, and Judge Evans

conveniently ignored my motion. Nowhere under oath did the Plaintiffs state that my claims were false. This demonstrates bias.

1030. **BIAS #887** -- Plaintiffs' Motion for Permanent Injunction Restricting Future Filings by William M. Windsor was based upon significant false statements by Plaintiffs' Attorneys. [MIST-1_Doc.458.] These were detailed in the Motion for Sanctions filed on August 4, 2009. [MIST-1_Doc.486.] I have shown that these statements of alleged fact were false. Judge Evans ignored this. This demonstrates bias.

1031. **BIAS #888** -- I provided Judge Evans with every case in every federal court where the terms "res judicata" and "nucleus of operative fact" are used. There are 476 cases. One list that I provided included every case in every federal court where the terms "nucleus of operative fact" and "issue preclusion" or "collateral estoppel" are used and the terms "res judicata" or "claim preclusion" are not used. There are only 28 such cases; each of these cases was reviewed, and NONE of them indicate that the term "nucleus of operative fact" applies to "issue preclusion." 17 deal with pendent or supplemental jurisdiction; 3 deal with class action commonality; 2 vindictive prosecution; 2 not applicable at all; 1 Jones Act; 1 double jeopardy; 1 transfer of action; and 1 SDNY case that uses nucleus in one sentence in a decision that said issue preclusion did not apply. Judge Evans ignored this. This demonstrates bias.

1032. **BIAS #889** -- There are only 36 cases in the history of the Eleventh Circuit where the terms "nucleus of operative fact" and "issue preclusion" or "collateral estoppel" are used. 33 involved pendent or supplemental jurisdiction; 1 dealt with 42 USC 1983; 1 used "nucleus of operative fact" as an injunction term but did not also cite res judicata (claim preclusion) or issue preclusion (collateral estoppel); and 1 used it in a discussion of the violation of a filing injunction that did not also cite res judicata (claim preclusion) or issue preclusion (collateral estoppel). So, in the history of the Eleventh Circuit, "nucleus of operative fact" and "issue preclusion" or "collateral estoppel" have never been linked as a doctrine except with pendent jurisdiction. Judge Evans ignored this. This demonstrates bias.

1033. **BIAS #890** -- Furthermore, the Eleventh Circuit has been clear about stating that res judicata is claim preclusion; collateral estoppel is issue preclusion; and that they are separate doctrines. (***Citibank, N.A. v. Data Lease Financial Corp.***, 904 F.2d 1498 (11th Cir. 07/05/1990); ***First Alabama Bank of Montgomery, N.A. v. Parsons Steel Inc.***, 747 F.2d 1367 (11th Cir. 12/04/1984). Judge Evans ignored this. This demonstrates bias.

1034. **BIAS #891** -- I provided Judge Evans with a Motion for Stay on April 21, 2010, and it included over 300 case citations, including two Supreme Court cases and one Northern District of Georgia case, that make it clear that the District Court did not have jurisdiction after the appeal was

filed. [Doc.785.] Judge Evans outrageously ignored the overwhelming case law. This proves bias.

1035. **BIAS #892** -- Judge Evans came up with one Fifth Circuit case that she alleged claims ***Griggs v. Provident Consumer Disc. Co.*** is not absolute -- ***United States v. Revie***, 834 F.2d 1198, 1205 (5th Cir. 1987). (See MIST-1_Doc.799 -- APRIL 27, 2010 ORDER, P. 5.) But ***United States v. Revie*** does not stand for what Judge Evans has claimed. It is not a case that says a district court retains jurisdiction and has the right to ignore the ***Griggs'*** precedent. ***Revie*** is a bankruptcy court action where a judge issued a Show Cause order; there were no motions. The rules are different in bankruptcy courts, and the decision in ***Revie*** was that 28 U.S.C. § 157 gives bankruptcy court judges the power to hear motions at all times. In addition, ***Revie*** is neither an Eleventh Circuit case nor a Supreme Court case. ***Revie*** was a 1987 case, and there have been 14 Eleventh Circuit decisions on this issue since ***Revie***. ***Revie*** does not apply because it is a Fifth Circuit case, due to its irrelevance, and due to the precedents that bind Judge Evans. Judge Evans ignored this. This demonstrates bias.

1036. **BIAS #893** -- I have a serious identity theft issue that has been communicated to Judge Evans in a motion, but she refused to take the action necessary to protect my financial information that is now online for the world to see. This proves bias.

1037. **BIAS #894** -- On April 28, 2010, Judge Evans issued an "ORDER that the Court not advise Windsor regarding the manner in which he may

satisfy his obligations set by the 794 Order. To the extent that Windsor seeks such advise from the Court, the Court again suggests that he retain counsel." [MIST-1_Doc.809.] This demonstrates bias against pro se parties.

1038. **BIAS #895** -- On April 28, 2010, Judge Evans issued an order refusing to file a Motion for Clarification. [MIST-1_Doc.809.] This was an important motion, and this proves bias.

1039. **BIAS #896** -- On April 28, 2010, Judge Evans issued an order refusing to file a Motion for Stay and Motion for Approval of Bond. [MIST-1_Doc.809.] This was an important motion, and this proves bias.

1040. **BIAS #897** -- On April 28, 2010, Judge Evans issued an order refusing to file a Motion for Redaction. [MIST-1_Doc.809.] This was an important motion, and this proves bias.

1041. **BIAS #898** -- On April 28, 2010, the Plaintiffs caused the writ of execution to be filed with Cobb County and Fulton County. [MIST-1_Doc.877 -- PLAINTIFFS' RESPONSE, P.5.] This was done with a stay in place and without any notice to me despite numerous faxes and letters from me to Plaintiffs' attorneys and Judge Evans from April 13, 2010 to April 28, 2010. Judge Evans facilitated this. This demonstrates bias.

1042. **BIAS #899** -- On April 29, 2010, Judge Evans issued an "ORDER that the Clerk of Court is DIRECTED not to file Windsor's Proposed Motions

for Clarification, for Stay, for Approval of Bond, and for Redaction as pending motions on this case's docket or elsewhere. [MIST-1_Doc.811.] This demonstrates bias.

1043. **BIAS #900** -- On April 30, 2010, Judge Evans issued an "ORDER that the Clerk is DIRECTED not to file the Motion to Approve Compliance with Order of Contempt and associated documents as pending motions on this case's docket or elsewhere." [MIST-1_Doc.812.] This demonstrates bias.

1044. **BIAS #901** -- On April 30, 2010, Judge Evans issued an "ORDER that Windsor shall personally pay $76,076.72 in attorney's fees, costs, and expenses incurred by Plaintiffs as a direct result of the work done by counsel to address the frivolous post-judgment motions that Windsor filed in this case. The Clerk of Court is hereby DIRECTED to enter a final judgment against Windsor in the amount of $76,076.72. The Clerk of Court is also DIRECTED to issue a writ of execution for that amount in Plaintiffs' names against Windsor 14 days after the entry of the final judgment, consistent with the Federal Rule of Civil Procedure 62(a)." [MIST-1_Doc.816.] There was no hearing and no opportunity to dispute these amounts. This is illegal, and this proves bias.

1045. **BIAS #902** -- Judge Evans has refused to file motions submitted by me in 2010. She has allowed a few, but most have been denied or ignored for no valid reason. This proves bias.

1046. **BIAS #903** -- In addition to MIST-1_Docs. 809, 811, and 812, I have been denied much more. I lost any ability to file motions for several months because there was no provision for me to do so. Judge Evans refused to accept motions prior to the Sanctions Hearing on April 8, 2010 or file valid motions during the Contempt Hearing that began on April 16, 2010. There are other orders similar to MIST-1_809, 811, and 812 that caused me to miss the deadline for filing appeals. This proves bias.

1047. **BIAS #904** -- This Court continues to obstruct justice by concealing the document submitted to the court under seal for an in camera inspection. [MIST-1_Doc. 168.] Judge Evans never recognized the overwhelming evidence in support of me. This proves bias.

1048. **BIAS #905** -- Judge Evans has committed a massive number of criminal acts. This proves bias.

1049. **BIAS #906** -- I did not violate any court rule, court deadline, court request, or other court requirement. Judge Evans never gave any notice to me of any specific conduct that it considered to be potentially sanctionable, a requirement for sanctions. To then award sanctions out of the blue proves bias.

1050. **BIAS #907** -- **THE APRIL 30, 2010 ORDER OF ATTORNEYS' FEES SHOULD HAVE BEEN DENIED BECAUSE OF FRAUD.** Fraud vitiates everything. "A judgment obtained by fraud is a nullity. I can prove fraud and fraud upon the

courts. I need the documents filed under seal and an evidentiary hearing. The refusal to produce these documents yet again proves bias and is obstruction of justice.

1051. **BIAS #908** -- Judge Evans has discriminated against me because I am pro se. The Court record is now filled with proof of the discrimination against me due to my status as a pro se party. This is extra-judicial bias that has nothing to do with me, simply my status before the Court. (See MIST-1_Doc.768 -- Transcript of Contempt Hearing on April 8, 2010 -- P.63:15-24, P.64:23-25, P.65:1-25, P.66: 1-25, P.67: 1-25, P.68:1-25, P.69:1-25, P.70:1-7, P.71:18-25, P.78:16-25, P.79:1-11, P.96:19-22, P.100:7-11, P.101:2-18.)

P.63:

15 THE COURT: LET ME ASK YOU THIS. HAVE YOU -- WHY
16 HAVEN'T YOU TALKED TO A LAWYER ABOUT THIS? THIS IS -- THE
17 MATTER OF FINALITY OF JUDGMENTS IS SOMETHING THAT LAWYERS KNOW
18 ABOUT AND MAYBE LAY PEOPLE DON'T KNOW ABOUT.
19 BUT I DON'T UNDERSTAND WHY WITH ALL THE WORK YOU'VE
20 DONE ON THIS CASE AND SUSPECTING, AS I DO, THAT YOU HAVE PLENTY
21 OF RESOURCES TO HIRE A LAWYER, WHY YOU HAVEN'T DONE THAT

22 BECAUSE THAT WOULD BE A REALLY GOOD WAY FOR YOU TO GET
23 INFORMATION ABOUT WHETHER IT'S CORRECT THAT ONCE A CASE IS OVER
24 IT'S OVER.
25 MR. WINDSOR: RULE 60(B), YOUR HONOR, REOPENS CASES

P.64:

23 HAVE FILED, AND MY QUESTION FOR YOU IS WHY HAVEN'T YOU
24 CONSULTED A LAWYER ABOUT WHETHER IT'S PROPER FOR YOU TO
25 CONTINUE FILING THESE THINGS?

P.65:

1 MR. WINDSOR: YOUR HONOR, AS I SAY I HAVE TALKED TO
2 ABOUT A DOZEN. I THINK I LISTED MOST OF THEIR NAMES ONCE IN
3 SOMETHING THAT WAS FILED, AND THEY'RE AFRAID OF REPRISALS
4 AND --
5 THE COURT: HAVE YOU SPECIFICALLY ASKED A LAWYER
6 WHETHER IT'S OKAY TO GO ON AND KEEP FILING THINGS AFTER A CASE
7 IS OVER, OR ASK A LAWYER IS IT TRUE THAT I CAN'T DO ANYTHING,
8 IS IT REALLY TRUE THIS CASE IS OVER. THAT'S WHAT I WANT TO
9 KNOW.

10 MR. WINDSOR: YOUR HONOR, I NEVER GOT THAT FAR.

11 BASICALLY I BEGAN A DISCUSSION WITH EACH OF THEM TELLING THEM

12 WHERE I WAS AND WHAT WE NEEDED, AND IT'S AMAZING HOW QUICKLY

13 THEY WILL STOP TALKING TO YOU. SOME OF THEM CAME RIGHT OUT AND

14 SAID THERE IS NO WAY I CAN DO THAT, I HAVE TO MAKE A LIVING, I

15 CAN'T DO THAT.

16 THE COURT: THEY COULDN'T ADVISE YOU ON A CASE

17 INVOLVING MAID OF THE MIST? THOSE ARE COMPANIES FROM OUT OF

18 TOWN. IT'S NOT LIKE SUING COCA COLA IN ATLANTA.

19 MR. WINDSOR: NO, IT'S HAWKINS & PARNELL WHO'S

20 AWFULLY BIG AND YOU, YOUR HONOR. THEY JUST DON'T WANT ANY PART

21 OF IT. AS I LOOK AT THE CASE LAW THERE'S HARDLY ANY CASES

22 WHERE SOMEBODY PURSUES SOMETHING LIKE THIS BECAUSE NOBODY CAN

23 RISK GOING AFTER THE JUDGES.

24 THE COURT: FORGET ABOUT ME FOR A MINUTE. LET'S JUST

25 TALK ABOUT MAID OF THE MIST. WHAT WOULD STOP YOU FROM ASKING A

P.66:

1 LAWYER ABOUT YOUR CASE WITH MAID OF THE MIST AND WHETHER IT'S
2 OKAY TO KEEP ON FILING THINGS EVEN AFTER YOU'VE BEEN SANCTIONED
3 FOR FILING FRIVOLOUS THINGS. I JUST DON'T APPRECIATE -- DON'T
4 UNDERSTAND WHAT WOULD KEEP YOU FROM DOING THAT.
5 MR. WINDSOR: I SPOKE WITH ATTORNEYS TRYING TO FIND
6 SOMEBODY TO BE INVOLVED. THEY WOULDN'T BE INVOLVED. I
7 LITERALLY CALLED EVERY ATTORNEY THAT I KNEW AND ASKED THEM TO
8 REFER ME TO OTHER PEOPLE, MOST OF WHOM WEREN'T GOING TO DO THAT
9 BUT SOME WHO DID, AND I TALKED TO A BUNCH OF PEOPLE. I WENT TO
10 A BUNCH OF GUYS WHO HANDLE --
11 THE COURT: WELL, LET'S GO BACK A WAYS. LET ME ASK
12 YOU ANOTHER QUESTION. YOU REMEMBER WHEN WE HAD THE CASE GOING
13 ON BEFORE THE FINAL JUDGMENT, ALCATRAZ HAD A LAWYER
14 REPRESENTING IT, AND I THINK HE MAY HAVE REPRESENTED YOUR SON
15 ALSO. I'M NOT POSITIVE ABOUT THAT, BUT YOU DID NOT USE THAT
16 LAWYER.
17 INSTEAD OF USING HIS SERVICES, YOU WERE FILING ALL OF
18 YOUR OWN STUFF WHICH SOME OF IT WAS RATHER FAR-FETCHED I

19 THOUGHT. WHY WERE YOU REPRESENTING YOURSELF AT THAT TIME? YOU

20 HAD A LAWYER REPRESENTING THE ALCATRAZ ENTITIES, AND IT WOULD

21 HAVE BEEN, I WOULD THINK, NOT THAT EXPENSIVE TO ADD YOU ON AS

22 ONE OF THE CLIENTS. I MEAN YOU ALL WERE SORT OF ONE CONTIGUOUS

23 GROUP, AND, YET, YOU ELECTED NOT TO USE HIM AS A LAWYER. WHY

24 NOT?

25 MR. WINDSOR: OKAY. IT'S A LITTLE MORE INVOLVED

P.67:

1 ANSWER, BUT GOING BACK ORIGINALLY I WAS REPRESENTED AS WAS BOTH

2 ALCATRAZ ENTITIES BY BRIAN RALEY, RALEY & SANDIFER. HE DID

3 THAT UP TO THE POINT SHORTLY AFTER YOU GRANTED THE PRELIMINARY

4 INJUNCTION.

5 AT THAT POINT WE DECIDED TO APPEAL THAT BECAUSE THE

6 CASE LAW SAYS YOU CAN'T GRANT AN INJUNCTION WHEN YOU'RE NOT

7 GIVEN THE OPPORTUNITY OF NOTICE AND HEARING ON WHAT THE CLAIM

8 IS.

9 AS YOU MAY RECALL THEY DIDN'T HAVE A CAUSE OF

10 ACTION. YOU GAVE THEM SOME TIME AFTER THE HEARING TO COME UP

11 WITH A CAUSE OF ACTION. THEY CAME UP WITH ONE, AND WE WERE

12 NEVER PRESENTED THE OPPORTUNITY TO PURSUE THAT. SO WE FILED AN

13 APPEAL.

14 MR. ANDERSON STALLED EVERY FORM OF DISCOVERY IN ORDER

15 TO RUN OUT THE CLOCK ON -- THE DISCOVERY CLOCK. HE TOOK THE

16 POSITION THAT DURING WHILE AN APPEAL WAS PENDING AND WE WERE

17 ORDERED TO MEDIATION, WHICH TOOK FOREVER, NO DISCOVERY COULD BE

18 DONE. I NEVER AGREED TO THAT, BUT AT THE POINT THAT ALL OF

19 THAT STARTED HAPPENING, I SAID LOOK, I'M GOING TO REPRESENT

20 MYSELF. SO RALEY WITHDREW --

21 THE COURT: WHY?

22 MR. WINDSOR: SO THAT WHEN WE GOT AN OPPORTUNITY TO

23 DO DISCOVERY I COULD DO DISCOVERY AND TRY TO KEEP THE COSTS

24 DOWN. THIS COST US A MILLION DOLLARS.

25 THE COURT: YOU MEAN THE PLAN WAS THAT YOU WOULD DO

P.68:

1 THE DISCOVERY INSTEAD OF MR. RALEY DOING IT?

2 MR. WINDSOR: HELP, DO AS MUCH OF IT AS I COULD.

3 THE COURT: I'M ASKING YOU.

4 MR. WINDSOR: YES, NOT TOTALLY BUT PARTIALLY. SO HE

5 DIDN'T REPRESENT ME. THEN WHEN YOU --

6 THE COURT: BUT AS I RECALL MR. RALEY DID DO

7 DISCOVERY.

8 MR. WINDSOR: YES, YOUR HONOR, HE DID SOME OF THE

9 DISCOVERY, BUT I TOOK SOME DEPOSITIONS. I SUBMITTED DOCUMENT

10 REQUESTS. IF YOU RECALL WE DID HAVE ONE HEARING IN CHAMBERS.

11 I THINK IT WAS BASICALLY ON MY DOCUMENT REQUEST.

12 SO WHEN YOU GRANTED THE SUMMARY JUDGMENT, I THINK IT

13 WAS RIGHT AFTER THAT, AND MR. ANDERSON WILL KNOW, THAT I HIRED

14 JIM PENLAND, AND I HIRED MR. PENLAND BECAUSE HE WAS AN EXPERT

15 ON ATTORNEY'S FEES AND --

16 THE COURT: I DON'T REMEMBER HIM TO TELL YOU THE

17 TRUTH. HE WAS REPRESENTING JUST YOU?

18 MR. WINDSOR: YES, YOUR HONOR. I DON'T THINK YOU

19 EVER SAW HIM, BUT HE PREPARED THE DOCUMENTS.

20 THE COURT: DID HE FILE ANYTHING IN COURT UNDER HIS

21 NAME?
22 MR. ANDERSON: YOUR HONOR, I'M NOT SURE THAT HE EVER
23 HAD TO FILE AN ENTRY OF APPEARANCE IN YOUR COURT, BUT HE DID
24 FILE AN ENTRY OF APPEARANCE IN THE ELEVENTH CIRCUIT, AND HE
25 ACTUALLY ARGUED ON BEHALF OF MR. WINDSOR IN THE ELEVENTH

P.69:

1 CIRCUIT.
2 MR. WINDSOR: HE DID -- I'M PRETTY SURE HE FILED AN
3 APPEARANCE BECAUSE I KNOW HE FILED SOME MOTIONS IN YOUR COURT,
4 YOUR HONOR, OVER ATTORNEY'S FEES AND OVER A 1927 MOTION ONCE
5 BEFORE. THERE WERE SEVERAL THINGS, BUT IT WAS TOWARDS THE END
6 OF -- WHEN WOULD THAT BE? IT WOULD BE 2008.
7 SO PENLAND REPRESENTED ME THROUGH THE APPEAL PROCESS
8 AND THROUGH THE MEDIATION THAT WE WERE THEN ORDERED TO AGAIN BY
9 THE ELEVENTH CIRCUIT AFTER THEY SENT IT BACK, AND WE ENDED UP
10 ENTERING INTO THE CONSENT FINAL ORDER AND JUDGMENT IN THE FIRST
11 WEEK OR SO IN DECEMBER, AND THEN ALCATRAZ TERMINATED MR.
12 RALEY.

13 THEY TERMINATED HIM BECAUSE HE MADE A SIGNIFICANT
14 NUMBER OF MISTAKES NOT THE LEAST OF WHICH WAS NOT FILING
15 CAROLYN BALLARD BAZZO'S DEPOSITION AND NOT BOTHERING TO TELL US
16 ABOUT IT EITHER.
17 THE COURT: SO YOUR POSITION, JUST GOING BACK, IS
18 THAT YOU DIDN'T USE MR. RALEY TO REPRESENT YOU BECAUSE YOU FELT
19 THAT YOU COULD HOLD THE COST DOWN BY PREPARING SOME OF THE
20 DISCOVERY YOURSELF?
21 MR. WINDSOR: EXACTLY, AND HE SAID THAT TO YOU WHEN
22 WE MET AT THE HEARING IN CHAMBERS. IT'S IN THE COURT RECORD AT
23 THAT HEARING.
24 THE COURT: I DON'T REMEMBER THAT.
25 MR. WINDSOR: I AM SORRY, YOU DO REMEMBER?

P.70:

1 THE COURT: I DO NOT REMEMBER.
2 MR. WINDSOR: IT'S IN THERE. YOU HAD ASKED HIM WELL
3 WHO DOES THE MOTIONS OR WHATEVER, AND HE SAID THAT WE
4 COLLABORATED ON THEM WHICH IS TRUE. HE BASICALLY DID THEM, BUT

5 I LOOKED AT THEM AND GAVE HIM MY INPUT. I DON'T THINK I EVER

6 DRAFTED ANYTHING EXCEPT ONE OR TWO DOCUMENT REQUESTS. THERE

7 MAY HAVE BEEN A FEW OTHERS, BUT NOTHING REALLY MEANINGFUL.

P.71:

18 THE COURT: OKAY. SO THE BOTTOM LINE IS YOU'RE NOT

19 GOING TO TRY TO GET A LAWYER'S ADVICE. YOU'VE DECIDED ON YOUR

20 OWN THAT WHAT YOU'RE DOING IS OKAY, EVEN THOUGH YOU'VE BEEN

21 TOLD OTHERWISE.

22 MR. WINDSOR: WELL, YOUR HONOR, WHEN DID YOU TELL ME

23 OTHERWISE? IN THE MAY 22ND ORDER YOU DIDN'T FIND ATTORNEY'S

24 FEES. YOU DENIED THAT. YOU DENIED THE MOTIONS. ALL YOU SAID

25 WAS THE CASE IS CLOSED. ALL RIGHT. BUT AS I RESPONDED BUT

P.78:

16 MR. WINDSOR: COULD YOU CITE FOR ME CASES THAT SAY

17 THAT MY EFFORTS HAVE BEEN IMPROPER? BECAUSE I HAVEN'T SEEN

18 ANYTHING AND I DIDN'T SEE ANYTHING IN YOUR ORDERS.

19 THE COURT: THERE ARE A LOT OF CASES DISCUSSING THE

20 FINALITY OF JUDGMENTS, AND ANY LAWYER THAT YOU WERE TO CONSULT

21 WOULD TELL YOU THAT WHAT YOU HAVE BEEN DOING HAS BEEN TOTALLY
22 OFF THE WALL. IT'S SO FAR OFF THE CHART THERE'S NO WAY I CAN
23 ADEQUATELY DESCRIBE IT TO YOU.
24 NO, THERE IS NOT A CASE THAT WOULD HAVE FACTS SIMILAR
25 TO THIS CASE THAT WOULD ADJUDICATE THAT MATTER.

P.79:

1 MR. WINDSOR: COULD YOU DIRECT ME IF THERE IS SOME
2 KEY WORDS I CAN ENTER INTO VERSUSLAW?
3 THE COURT: NO, I'M NOT GOING TO GET INTO THAT WITH
4 YOU. YOU CAN GET A LAWYER, I'M ABSOLUTELY POSITIVE YOU CAN,
5 WHO WILL DISCUSS THE FACTS OF THIS CASE WITH YOU. YOU DON'T
6 HAVE TO MENTION MY NAME; ALTHOUGH, IT WOULDN'T MAKE ANY
7 DIFFERENCE IF YOU'RE NOT GOING TO SUE ME. THEY DON'T CARE
8 ABOUT THAT.
9 IF YOU TALK WITH ANY GOOD LAWYER ABOUT WHAT HAS GONE
10 ON IN THIS CASE, HE OR SHE WILL TELL THAT WHAT YOU HAVE DONE IS
11 JUST TOTALLY OFF THE CHART. THERE IS NO QUESTION ABOUT IT.
12 MR. WINDSOR: WELL, WOULD YOU LIKE ME TO GIVE A

P.96:

19 I ALSO FIND THAT MR. WINDSOR HAS CHOSEN TO REPRESENT
20 HIMSELF BECAUSE HE KNOWS WHAT HE IS DOING WILL NOT BE DONE ON
21 HIS BEHALF BY AN ATTORNEY OF LAW WHO IS A MEMBER OF THE BAR OF
22 THIS COURT.

P.100:

7 NOW, LET ME JUST SPEAK TO YOU, MR. WINDSOR, BRIEFLY
8 ABOUT THE HEARING THAT IS COMING UP NEXT FRIDAY. I HAVE SAID
9 THIS TO YOU IN A WRITTEN ORDER AND I WANT TO REITERATE IT.
10 THIS CONTEMPT HEARING IS A VERY SERIOUS MATTER AND YOU NEED A
11 LAWYER.

P.101:

2 THAT BEING THE CASE I THINK YOU NEED TO VERY
3 SERIOUSLY CONSIDER THAT THE COURT DOES HAVE THE POWER TO PUT
4 YOU IN JAIL IN ORDER TO DETER YOU FROM CONTINUING THIS COURSE
5 OF ACTION, AND I THINK THAT'S SOMETHING YOU SHOULD TAKE VERY
6 SERIOUSLY AND GET A LAWYER.

7 MR. WINDSOR: WELL, YOUR HONOR, IF YOU'RE CONTINUING
8 TO THREATEN ME WITH CRIMINAL, YOU HAVE TO FOLLOW THE FEDERAL
9 RULES OF CRIMINAL PROCEDURE.
10 THE COURT: LET ME SAY THIS, MR. WINDSOR. I WILL
11 FOLLOW THE RULES. THEY MAY NOT BE THE RULES THAT YOU THINK I
12 SHOULD FOLLOW. I'M TELLING YOU RIGHT NOW YOU ARE AT RISK FOR
13 BEING PUT IN JAIL, AND I'M ALSO TELLING YOU THAT THAT IS NOT
14 NECESSARILY A CRIMINAL PENALTY.
15 THE COURT DOES HAVE THE POWER TO PUT SOMEBODY IN JAIL
16 TO GET THEM TO CHANGE THEIR CONDUCT, TO DETER THEM FROM FUTURE
17 ACTIONS SIMILAR TO PAST ACTIONS, AND IF YOU WILL CONSULT WITH A
18 LAWYER, YOU WILL FIND OUT THAT I'M RIGHT.

Also see Transcript of Contempt Hearing on April 16, 21, and 23, 2010. [MIST-1_Doc.778, 798, 800]).

1052. **BIAS #909** -- Judge Evans has also discriminated against me because I have had the audacity to take action against federal judges. Judge Evans has shown pervasive bias, and the events in 2010 really prove it.

1053. **BIAS #910** -- On May 3, 2010, Judge Evans issued an "ORDER granting Defendant William Windsor's 820 Motion to File to File

Financial Documents under Seal. **However, the Court notes that these documents will not be considered in any way as they have not been furnished to counsel for Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd.** Windsor's 820 Motion to Vacate Contempt Fine and Legal Fees Sanction is DENIED. Windsor is DIRECTED to serve a copy of his motion on counsel for Plaintiffs by courier immediately. Plaintiffs may file a response to Windsor's Emergency Motion for Stay and Motion to Refund $192,377.87 no later than Wednesday, May 5, 2010." [MIST-1_Doc.823.] [**emphasis added**.] This proves bias.

1054. **BIAS #911** -- On May 4, 2010, I sent documents to Judge Evans for consideration because I was enjoined from filing anything. On May 4, 2010, Judge Evans issued an "ORDER denying Defendant William M. Windsor's 832 Motion for Reconsideration of April 9, 2010 Orders and April 10, 2010 Clerk's Judgment and Writ of Execution." [MIST-1_Doc.833.] I met all of the requirements for a motion for reconsideration that is authorized under the local rules. This proves bias.

1055. **BIAS #912** -- On May 17, 2010, Judge Evans issued an "ORDER that the 867 and 869 Motions be FILED. The 869 MOTION for Receipt of Check, MOTION for Stay, and MOTION for Approval of Bond is DENIED WITHOUT PREJUDICE. The 867 Emergency MOTION for Stay Dated May 14, 2010 and MOTION for Approval to File Lawsuit Against Plaintiffs, Hawkins & Parnell, and Carl Hugo Anderson is DENIED." [MIST-

1_Doc.870.] So Judge Evans ruled that I could not file a lawsuit against the Plaintiffs' attorneys for illegally filing liens on the assets of my wife and myself. This proves bias. If I do what I need to do, I will be found in contempt.

1056. **BIAS #913** -- Judge Evans erroneously stated this in the Order of May 25, 2010 [MIST-1_Doc.887, P.9]: "As noted above, Windsor did not accompany his April 15 Notice of Appeal in Judge Evans with the $455.00 appeal filing fee. Only on May 5, 2010, when Windsor filed his "Second Amended Notice of Appeal" of the April 9 order, judgment, and writ of execution did Windsor submit the required fee." This false. I provided detailed proof, and it was ignored. This proves bias.

1057. **BIAS #914** -- On May 3, 2010, Judge Evans indicated that my personal financial information would be considered if I provided it to the Plaintiffs. [MIST-1_Doc.823.] Judge Evans repeated this on May 5, 2010. [MIST-1_Doc.840.] I attempted to deal with that issue in a motion on May 14, 2010. [MIST-1_Doc.861.] When the Court denied that approach, I provided the confidential information to the Plaintiffs' Attorneys on May 17, 2010. Then Judge Evans claimed that a lack of jurisdiction would not enable the Court to consider the information. [Doc.874, P.3-4.] This shows duplicity and proves bias.

1058. **BIAS #915** -- I needed a protective order. My identity is in serious danger of being stolen, if it hasn't been stolen already. I received a letter from the IRS that indicates that someone has

been communicating with the IRS attempting to obtain information and a refund. I have not been! I provided a letter from the IRS. Judge Evans ignored this and refused to order my financial information to be redacted or sealed. This proves bias.

1059. **BIAS #916** -- I prepared a plan that will simplify everything for all involved. She claimed it would not do so, and she denied it. I proposed that the Eleventh Circuit be asked to temporarily remand all appeals except 10-10139-A (the appeal of the DECEMBER 22, 2009 ORDER). Judge Evans would then have the authority to act upon the improperly filed writs of execution. Judge Evans should order that the Plaintiffs expunge them, and she could rescind them, and take any other action to prevent this from happening again. Judge Evans should then conduct a private hearing in chambers to review my inability to pay. I will update my financial information to the day of the hearing (signed before a notary) and provide the information to the Plaintiffs' attorney and to Judge Evans. If Judge Evans finds that I do not meet the criteria established by case law for inability to pay, then nothing will be changed, but she should ensure that the record shows that stays are issued for all amounts under appeal. If Judge Evans finds that I do meet the criteria for inability to pay, she should adjust the orders appropriately. I can then withdraw any appeals that are no longer appropriate. At the hearing in chambers, the issue of a Protective Order could also be briefly discussed. This is an extremely serious issue. Unless there is some reason to have my personal financial information available for the world to see and use,

there does not seem to be a good reason to keep the 2010 docket entries public. I identified the open docket items. Judge Evans rejected this proposal. This proves bias.

1060. **BIAS #917** -- The illegal filing of the writ of execution may cause me to lose credit cards that I have held for as long as 27 years. Routine credit checks done by the credit card companies have caused them to discover the writ of execution and liens. I was called by Bank of America seeking to reduce or revoke a credit card that has always been paid promptly for the long history of the account. I have a perfect credit history with American Express for 27 years, but my account is now in jeopardy. Judge Evans ignored this. This proves bias.

1061. **BIAS #918** -- The May 25, 2010 ORDER contains the following error of fact: I did not file "numerous frivolous post-judgment motions." [MIST-1_Doc.887--May 25, 2010 ORDER, p.1, ¶1.] None of the motions were declared frivolous. I never filed anything frivolous. This proves bias.

1062. **BIAS #920** -- The May 25, 2010 ORDER contains the following error of fact: I did accompany my April 15, 2010 Notice of Appeal with the required filing fee. [MIST-1_Doc.887, p.1, ¶2, p.2, ¶1.] This demonstrates bias.

1063. **BIAS #921** -- The May 25, 2010 ORDER contains the following error of fact: Judge Evans's description of the events that took place from April 9, 2010 to May 17, 2010 is significantly incomplete. [MIST-1_Doc.887, p.1-3.] Georgia law applies. This

is a simple legal issue that Judge Evans took 14 pages to complicate and confuse so that it could rule against me when Judge Evans had to know that there is no basis for such a decision. [MIST-1_Doc.877.] Judge Evans has said that 28 U.S.C. § 1962 does not apply to stay provisions. [MIST-1_Doc.887, P.8, ¶2.] Case law proves Judge Evans to be wrong. 28 U.S.C. § 1962 reads: "Every judgment rendered by a district court within a State shall be a lien on the property located in such State in the same manner, to the same extent and under the same conditions as a judgment of a court of general jurisdiction in such State, and shall cease to be a lien in the same manner and time." (See Exhibit 1 hereto – category = 28 U.S.C. § 1962.) In this matter, judgments have been rendered by this federal District Court in the State of Georgia, and my property in the State of Georgia has been affected. "Every judgment ... shall be a lien ... under the same conditions as a judgment of a court in such State...." So, the judgment awarded in this civil action became a lien in Georgia under the same conditions as if this action had taken place in a Georgia state court. Judge Evans erroneously says FRCP Rule 62(d) and (a) control. [MIST-1_Doc.887, P.7, ¶2.] **FRCP Rule 62(f) controls**. It states: "(f) Stay in Favor of a Judgment Debtor Under State Law. "**If a judgment is a lien on the judgment debtor's property under the law of the state where the court is located, the judgment debtor is entitled to the same stay of execution the state court would give**." [**emphasis added**.] The law in Georgia is that a judgment is automatically a lien on the judgment debtor's property. O.C.G.A. § 9-12-80 is the applicable statute. 28 U.S.C. § 1962 and FRCP Rule 62(f) are

the applicable laws, and these laws allow every state to set the rules as to how federal court judgments will be treated. The importance of these cases shown on Exhibit 1 hereto is to disprove the claim of Judge Evans in the MAY 25, 2010 ORDER. [MIST-1_Doc.887, P.6, ¶2-4; P.7, ¶1-2; P.8, ¶1-3; P.9, ¶1.] Judge Evans's position is: "...Judge Evans concludes that Federal Rule 62(d) (and, though less pertinent, Federal Rule 62(a)) control in this diversity action, rather than the conflicting Georgia statutes invoked by Windsor." This is outrageously wrong. This proves bias.

1064. **BIAS #922** -- The May 25, 2010 ORDER contains the following error of fact: Judge Evans is also totally wrong about diversity impacting this issue as well as the concept that federal laws always trump state laws. [MIST-1_Doc.887, P.6.] The Fifth Circuit tells us that FRCP Rule 62(f) is applicable to diversity cases. 28 U.S.C. § 1962 requires the docketing of a federal judgment according to state law, merely conforms with the congressional policy that the execution of federal judgments shall be done according to state law. See FRCP Rule 69(a). FRCP Rule 62(f) recognizes and reaffirms the right of a judgment debtor to a stay of execution "in any state in which a judgment is a lien upon the property of the judgment debtor." This means Georgia. Judge Evans ignored this. This proves bias.

1065. **BIAS #923** -- The May 25, 2010 ORDER contains the following error of fact: The Erie Rule is not applicable. [MIST-1_Doc.887, P.7, ¶1.] This proves bias.

1066. **BIAS #924** -- Judge Evans discusses the 1991 ***Bank South*** case in the MAY 25, 2010 ORDER (MIST-1_Doc.887) on pages 10-14. The trial court ruled in ***Bank South*** that "the notice of appeal deprived it of jurisdiction to order the posting of a supersedeas bond." Federal rules changed in 2009 to provide a means for the lower court to have jurisdiction. On December 1, 2009, the Federal Rules of Appellate Procedure ("FRAP") added FRAP Rule 12.1. FRAP Rule 12.1 provides a temporary remand procedure to enable Judge Evans to grant the relief requested herein. FRAP Rule 12.1 is being used for precisely such purposes. I explained this to Judge Evans, and she refused. This proves bias.

1067. **BIAS #925** -- The Order of May 25, 2010 consumes 14 pages while ignoring a significant issue and completely misstating the law. A significant issue here is the gross unfairness of forcing me to borrow $192,377.87 to avoid bankruptcy and then allowing the Plaintiffs to also obtain a lien in that amount on all of my personal property. The Plaintiffs have received $384,755.74 rather than $192,377.87, and they have destroyed my perfect credit causing loans to be called, mutual funds to be liquidated by the bank, and credit to be jeopardized and potentially lost as a result. Judge Evans is destroying me financially out of bias and spite.

1068. **BIAS #926** -- As Judge Evans did not immediately grant my Motion, she was acting criminally because the law is clear. This demonstrates bias.

1069. **BIAS #927** -- On May 25, 2010, Judge Evans issued an "ORDER that the Clerk is DIRECTED to file Windsor's 884 REPLY to Plaintiffs' 877 Response in Opposition to Windsor's Motion to Expunge the Writ of Execution. The Court concludes, however, that it need not order the expungement of the liens recorded by Plaintiffs. To the extent that Windsor's reply requests any additional affirmative relief from the Court of Plaintiffs, such requests are DENIED." [MIST-1_Doc.887.] Judge Evans ignored the fact and Georgia law. This proves bias.

1070. **BIAS #928** -- On May 25, 2010, Judge Evans issued an "ORDER that the Clerk is DIRECTED to file Windsor's 878 Cover Letter, 879 Motion for Protective Order, 880 Motion for Reconsideration and attachments, and 882 Response to Plaintiffs' Certificate re Windsor's Non-Compliance with the Order of April 26, 2010. The 880 Motion for Reconsideration is DENIED. The 879 Motion for Protective Order is GRANTED IN PART as explained within the Order. To the extent that the 882 Response to Plaintiffs' Certificate re Windsor's Non-Compliance with the Order of April 26, 2010 requests any affirmative relief from the Court or Plaintiffs, those requests are DENIED. Windsor's Motion to Stay and to Seal Documents dated May 12, 2010 SHALL NOT BE FILED as it is duplicative of the 872 Motion on the docket. Therefore the Court shall not make an exception to the permanent filing injunction to permit filing of the motion." [Doc.886.] This demonstrates bias.

1071. **BIAS #929** -- Judge Evans was totally wrong about diversity impacting this issue as well as the concept that federal laws always trump state laws. [MIST-1_Doc.887, P.6.] The Fifth Circuit tells us that FRCP Rule 62(f) is applicable to diversity cases. This proves bias.

1072. **BIAS #930** -- There is no question that a Notice of Appeal was filed on April 15, 2010. This Court erroneously claimed that the fee was not "paid." I searched the 5,000,000 cases in versuslaw.com for what the term "paid means," and other such terms, and just four cases address the definition. "Paid" means "giving one's check." "Paid" is "when payment is mailed." "Paid" means to "give something in return for goods or services." "Payees receiving payment by check are deemed to have been "paid" for tax deduction purposes." So, based upon the definitions for "paid," I paid when I sent my checks to the courts. Proof of receipt was provided to Judge Evans in Exhibits 5, 9, 13, 14, and 15. Therefore, the **notice of appeal filed by me served as supersedeas** upon the issuance of my check(s) for all costs in the District Court. The Notice of Appeal was effective on April 15, 2010 when I sent my check. This proves bias.

1073. **BIAS #931** -- Court decisions are supposed to be followed as precedents. Judge Evans has ignored the precedents of the superior courts. Throughout MIST-1, Judge Evans has routinely ignored and twisted the law while committing perjury on a regular basis. Judge Evans is corrupt. **ALL** of the court precedents prove that there is no legal authority whatsoever for orders issued in

MIST-1 in 2010. This proves bias. Judge Evans will say whatever she needs to say at the moment to damage me. She must be the most dishonest judge to ever sit on a federal bench.

1074. **BIAS #932** -- On December 3, 2007, Judge Evans stated in an order [MIST-1_Doc.325] that she did not have jurisdiction to consider motions because an appeal of all issues in the case had been filed. [MIST-1_Doc.325, P.4 and 7.] On April 9, 26, 30, 2010, and throughout 2010, Judge Evans stated in orders that she has jurisdiction despite a December 31, 2009 filing of an appeal of all issues in the case. THIS PROVES BIAS.

1075. **BIAS #933** -- On December 22, 2009, Judge Evans ordered that "motions are not cognizable in the face of a previously entered final judgment:" [MIST-1_Doc.723-DECEMBER 22, 2009 ORDER, P.3.] On December 22, 2009, Judge Evans expressed that this civil action was closed in eight different sentences. She then ordered that I could not file ANYTHING else. Then, despite her previous orders that district courts do not have jurisdiction to consider motions when an appeal of all issues in the case has been filed; despite her order that my motions are not cognizable in the face of a previously entered final judgment; despite expressing that this civil action was closed in eight different sentences in the December 22, 2009 ORDER; and despite issuing an order and injunction that barred me from filing ANYTHING in MIST-1, Judge Evans allowed the Plaintiffs to file anything they wanted, and I was helpless. Judge Evans has thus far issued 28 orders in 2010. The Plaintiffs were free to file 15

motions/pleadings. There have been 225 docket entries in 2010. There were four days of hearings at the Plaintiffs' request. In the almost five years since this civil action was filed, I was never been granted a hearing, and the Plaintiffs have received every hearing they have requested. From 2005 to 2009, there were approximately 100 contested motions, and the Plaintiffs "won" them all. There are many other examples of how Judge Evans claims one thing but means another and lies through her teeth. She is an evil, corrupt judge who has taken the law into her own hands. This proves bias.

1076. **BIAS #934** – Judge Evans is destroying me financially out of bias and spite.

1077. **BIAS #935** -- I submitted motions to Judge Evans after she issued the order awarding attorneys' fees that absolutely proved that she was wrong about the law, and she ignored them. A fair, unbiased judge would have considered them. If for any reason a fair, unbiased judge disagreed, they would explain why. This proves bias.

1078. **BIAS #936** -- I submitted a MOTION FOR RECONSIDERATION of the Order filed in MIST-1 on the 26th of April, 2010 and rulings on motions made during the Hearing on the Order to Show Cause on April 16, 2010, April 21, 2010, and April 23, 2010. United States District Court for the Northern District of Georgia Local Rule 7.2(E) provides authority for the MOTION FOR RECONSIDERATION, but Judge Evans refused to allow my motion to be filed. My motion clearly met the requirements of L.R. 7.2(E). The Motion for

Reconsideration was submitted due to clear errors of fact and law. It was especially important because there is evidence that I was not allowed to present at the April 23, 2010 Hearing. This proves bias.

1079. **BIAS #937** -- On May 3, 2010, I submitted for consideration for filing by Judge Evans an EMERGENCY MOTION FOR STAY; MOTION TO FILE FINANCIAL DOCUMENTS UNDER SEAL; MOTION TO REFUND $192,377.87; AND MOTION TO VACATE CONTEMPT FINE AND LEGAL FEES SANCTION. The original copy of this Emergency Motion provides financial information filed under seal that I was not allowed to present on April 8, 2010. This financial information proves that I cannot pay. Judge Evans made no factual inquiry into whether or not I could pay the sanctions as required by law. The hearing transcript shows that no testimony was taken regarding ability to pay, and I was not given the opportunity to comment on erroneous speculation of the Plaintiffs' attorney. [MIST-1_Doc.768--Transcript -- P.50:5-25; P.51:1-9, P.50:24-25, P.51:3-4.] Then she ignored this financial proof that I filed under seal. This proves bias.

1080. **BIAS #938** -- Plaintiffs have asserted *against Windsor* that allegations of fact must be supported by affidavits. On page 3 of Doc.841 filed by Plaintiffs on May 5, 2010, the Plaintiffs' attorneys state: "LR 7.1A(1), NDGa., states: Every motion presented to the clerk for filing shall be accompanied by a memorandum of law which cites supporting authority. If allegations of fact are relied upon, supporting affidavits must be attached to the

memorandum of law." This is nothing new since the Plaintiffs' attorneys made the same assertion on October 4, 2007 in MIST-1_Doc.272: "Windsor's Opposition Brief contains factual allegations that are not supported by a sworn affidavit. "If allegations of fact are relied upon, supporting affidavits must be attached to the memorandum of law." LR 7.1A. Windsor's Opposition Brief is essentially an unsworn declaration containing hearsay allegations as "testimony." Windsor cannot escape his obligation to provide actual evidence in support of his allegations. Therefore, Windsor's Opposition Brief has no value, evidentiary or otherwise." I advised Judge Evans that the Plaintiffs' RESPONSE Motion made statements of alleged "fact" that were not supported by affidavit or by the court record, and these statements must be disregarded. I said the Plaintiffs' entire RESPONSE should be stricken. In fact, virtually every filing made by Plaintiffs in 2009 or 2010 should be stricken as only a few had affidavits. I also moved that all motions, responses, and replies filed by Plaintiffs in 2009 and 2010 without affidavits supporting fact statements be stricken. Legal authority for this is Doc.270, Doc.841, LR 7.1A(1), NDGa., and ***Catch Curve v. Graphnet***, 1:06-CV-2386-CC, Doc.17 – P.12, United States District Court for the Northern District of Georgia (9-28-2007).) It is duplicitous for Judge Evans to endorse Plaintiffs' claims that filings require affidavits and then allow them to fail to file affidavits as a standard practice, as Plaintiffs have in this civil action. This proves bias. There was one set of rules for the Plaintiffs and a completely opposite set of rules for me.

1081. **BIAS #939** -- In an Order dated April 26, 2010, Judge Evans said: "As a general proposition, "[t]he filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." ***Griggs v. Provident Consumer Disc. Co.***, 459 U.S. 56, 58 (1982). [MIST-1_Doc.794--CONTEMPT ORDER, P.23.] ***Georgine v. Amchem Prods., Inc.***, Civil No. 93-0215, 1995 WL 422792, at *6 (E.D. Pa. July 12, 1995) ("Although the filing of an appeal generally divests a district court of its control over those aspects of the case involved in the appeal, courts still maintain jurisdiction for the purpose of enforcing its injunctions.") [MIST-1_Doc.794--CONTEMPT ORDER, P.24.] Judge Evans has made it clear that she did not have jurisdiction to consider the motion for attorneys' fees. But she did. This proves bias.

1082. **BIAS #940** -- Judge Evans has demonstrated pervasive bias throughout this matter. The track record is clear: 100 contested motions ruled in the Plaintiffs' favor and zero (0) in my favor; three hearings requested by the Plaintiffs and three hearings granted; 28 hearings or conferences requested by me and zero (0) granted; ignoring thousands of instances of perjury and false sworn pleadings and other violations by the Plaintiffs while choosing to believe (without any factual justification whatsoever) that I have not always told the truth, the whole truth, and nothing but the truth. The list of instances of bias totals 946.

1083. **BIAS #941** -- Judge Evans has made

hundreds of false statements in orders. She has taken erroneous legal positions on every significant issue – preliminary injunction, summary judgment, discovery, motions to reopen, motions to recuse, motion to lift seal, permanent injunction restricting filing, order to show cause, attorneys' fees, contempt, and more. I am intelligent, and I have done my homework. None of these decisions comply with the law. Judge Evans has twisted the law, rules, and facts to accomplish personal desires and cover up her wrongs and the wrongs of Maid's attorneys and Maid's managers. Violations by Judge Evans are listed throughout MIST-1_Doc. 462; in Exhibit A to Petition for Writ to Disqualify Judge Evans filed February 17, 2010 – Appeal No. 09-16494-A; and in Doc.1 in MIST-2.

1084. **BIAS #942** -- I have not taken the time to go through and list or count the motions that Judge Evans ignored, but there have been many. Some never saw the light of day again after she received them from me. With others, she simply denied allowing them to be filed, or allowed them to be field and dismissed them the same day. There is no legal authority whatsoever for Judge Evans to deny proper motions in Judge Evans, especially when Judge Evans has allowed the Plaintiffs to file anything they choose. This proves bias.

1085. **BIAS #943** -- I attempted to file a motion stating that Judge Evans was going to cause irreparable damage to me of over $100,000 unless action was taken. Judge Evans needed allow the Eleventh Circuit to temporarily remand appeals so that my financial situation could be properly

addressed. In addition to incurring $100,000 in income tax liability, the illegal filing of writs of execution has caused Wells Fargo to demand repayment of a $500,000 loan. Credit card companies have also contacted me about reducing or cancelling credit cards after they did routine credit checks and discovered the writs of execution and the liens. Judge Evans ignored it. This proves bias.

1086. **BIAS #944** -- In an Order dated May 18, 2010 [MIST-1 Doc.874], Judge Evans stated that she "no longer has jurisdiction to alter the judgment pending the outcome of the appeal." While Judge Evans has no jurisdiction to act while appeals are pending, all Judge Evans has to do is issue an order indicating that Judge Evans is prepared to review the awards of attorneys' fees and sanctions due to financial information provided by me. The remand would have given Judge Evans the jurisdiction to review this matter. Federal Rules of Appellate Procedure ("FRAP") Rule 12.1 provides a procedure to enable Judge Evans to grant the relief requested herein. I explained this to her. She ignored it. This proves bias.

1087. **BIAS #945** -- Judge Evans stated in the Order dated May 18, 2010 that "...the Court would be unable, even if it has jurisdiction to do so, to determine that Windsor lacks the ability to pay...." Judge Evans is OBLIGATED BY LAW to determine whether I have the ability to pay. This proves bias.

1088. **BIAS #946** -- To avoid bankruptcy, I was forced to borrow most of the money from my 401(k) retirement account to pay as deposits to the

District Court so that my property would not be seized and sold. Judge Evans ignored the facts and the law and awarded sanctions despite my statement to Judge Evans that I could not pay. Judge Evans did not allow a presentation from me of proof regarding inability to pay. Borrowing this money has put me into bankruptcy on paper. I now have an $800,000 negative net worth as a result. This is proven by the documentation. Judge Evans received this information and ignored it. This proves bias.

1089. This affidavit could be longer. There are many false statements in other orders, and I could go into detail about the gravity of the motions and documents that Judge Evans has not allowed to be filed for all the wrong reasons. But I'm tired, and I can't read, and all I can do is type on the computer screen. Reference to paper documents just isn't possible until I have the anticipated three more eye surgeries. If a fraction of what I have detailed above isn't enough for you, nothing else would matter.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that, to the best of my knowledge, the facts in the above petition are true and correct.

Executed this 9th day of November, 2010.

/s_____
WILLIAM M. WINDSOR

Sworn to before me, this 9th day of November, 2010.
/s_____
Notary Public

Supreme Court, U.S.
FILED

10-690 NOV 18 2010

OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,
Petitioner

v.

MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., AND JUDGE ORINDA D. EVANS,
Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS

APPENDIX – VOLUME 3

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This civil case is currently before the court on Plaintiffs' Motion for Temporary Restraining order [#2]. Both sides have filed briefs. Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively referred to as "Maid") allege that Defendants Alcatraz Media, LLC, Alcatraz Media, Inc., and William M. Windsor (collectively referred to as "Alcatraz") are causing irreparable harm to Maid through Alcatraz's unauthorized business practices.

Maid operates boat tours of Niagara Falls and has since 1846.

Maid sells tickets for its tours at its box offices in Niagara Falls, as well as through ticket brokers that it authorizes.

Alcatraz operates a ticket brokerage business through its web site, www.niagarafallstours.net.

In July 2005, Maid accepted Alcatraz's application for permission to sell vouchers for tickets for Maid's boat tours.

Alcatraz claims that Maid orally promised to honor its vouchers throughout the 2005 season.

Alcatraz sells tickets for Maid's tours at a higher price than that offered at Maid's box offices. On its web site Alcatraz also represents the retail price of Maid's tours as being higher than that offered at Maid's box offices. Adult tickets for Maid's tours are currently sold for $11.50 at Maid's box offices. Alcatraz's web site currently states: Maid of the Mist Boat Tour in Niagara Falls Prices - Retail Rate (Adult Retail Rate): $26.50, Adult Rate: $21.50, Savings: $5.00.

Alcatraz has not addressed its basis for this apparent misrepresentation. Alcatraz states that the amount it charges over Maid's price is a service charge which is justified by its advertising and operating expenses.

In June 2005, Maid notified Alcatraz that it would no longer accept Alcatraz's vouchers due to consumer complaints and confusion regarding the

price of the tours and the paperwork required for the vouchers. Alcatraz agreed to remedy the problem, and Maid continued to accept Alcatraz's vouchers. On July 29, 2005, Maid again notified Alcatraz that it would immediately stop accepting Alcatraz's vouchers. Maid states that Alcatraz continued to sell vouchers after July 29, 2005, and that consumer complaints and confusion continued.

Maid filed a motion for temporary restraining order in August 2005, and a hearing was set for October 2005. Maid withdrew its motion after Alcatraz agreed to stop selling vouchers and to remove Maid's name and images from Alcatraz's web site. Alcatraz claims that it has not offered vouchers for individual Maid tours on its web site since August 2005. Alcatraz states that the only references to Maid on its web site since then "involve Maid tours as part of tour packages, which are sold through other tour operators." (Def. Brief, p. 5).

Maid filed the instant motion for temporary restraining order after discovering that Alcatraz's web site is offering for sale vouchers for Maid's tours for the 2006 season. Maid states that it terminated the at-will relationship with Alcatraz on July 29, 2005 and that Alcatraz's continued actions are causing irreparable harm to Maid's business and reputation. Maid has presented sufficient facts to satisfy the Court that it is necessary to issue a temporary restraining order.

Accordingly, Plaintiffs' Motion for Temporary Restraining Order [#2] is GRANTED. Pending further order of the Court, Defendant is hereby

RESTRAINED from using the Plaintiffs' names on web sites controlled, maintained or used by Defendants; from using images of Plaintiffs' boats and/or facilities on web sites controlled, maintained or used by Defendants; and from selling or attempting to sell vouchers for tickets for Plaintiffs' services.

A hearing on Plaintiffs' motion for preliminary injunction[1] is scheduled for Tuesday, April 11 at 3:00 p.m.

SO ORDERED, this 29 day of March, 2006 at 5:30 p.m.

/S
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

---

[1] The Court deems a motion for preliminary injunction to be included in Plaintiffs' Complaint for Injunctive Relief.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

This case is currently before the Court on Defendants' Motion to Require Bond [#11] and Defendants' Motion to Dissolve Temporary Restraining Order or, Alternatively, to Modify Temporary Restraining Order [#17].

Defendants have requested that Plaintiffs be required to post a bond in the amount of $400,000 as a condition to the continuation of the Temporary Restraining Order issued by the Court on March 29, 2006. Pursuant to Federal Rule of Civil Procedure 65(c), Plaintiffs are required to post a bond for costs and damages incurred by Defendants if they are found to have been wrongfully restrained. The Court will require Plaintiffs to post a corporate surety bond

in the face amount of $5,000 as a condition to the continuation of the Temporary Restraining Order.

Thus, Defendant's Motion to Require Bond is GRANTED to that extent.

Defendants also argue that the wording of the Temporary Restraining Order has forced them to remove from their website(s) tour packages that include Maid of the Mist boat rides, in addition to the individual Maid of the Mist tickets/vouchers that spawned the parties' dispute. As it is clear to the Court that Plaintiffs do not object to Defendants selling Gray Line package tours that include a Maid of the Mist boat ride, the Court will modify the scope of the Temporary Restraining Order to allow

Defendants to use Plaintiffs' name and images insofar as required to sell such Gray Line tours. Further modifications to the Temporary Restraining order will have to wait until the hearing scheduled for April 11, 2006.

Defendants' Motion to Require Bond [#11] is GRANTED to the extent that Plaintiffs are hereby ORDERED to post a corporate surety bond in the face amount of $5,000. Defendants' motion to Dissolve Temporary Restraining order or, Alternatively, to Modify Temporary Restraining order [#17] is GRANTED IN PART and DENIED IN PART. The scope of the Temporary Restraining Order issued on March 29, 2006 is hereby modified to allow Defendants to use Plaintiffs' name and images to sell Gray Line package tours only.

SO ORDERED, this 3 day of April, 2006.

/S

ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

Following the Court's April 3, 2006 Order granting Defendants' Motion to Require Bond, Plaintiffs requested permission to post a $5,000 cash bond in place of a $5,000 corporate surety bond. Plaintiff's request for permission to post a $5,000 cash bond is hereby GRANTED.

SO ORDERED, this 4 day of April, 2006.

/S
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

This civil case is currently before the Court on Plaintiffs' request for preliminary injunction [#1] and Defendants' Objection to Plaintiffs' Notice of Filing of Affidavit of Timothy P. Ruddy [# 31], Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively referred to as "Maid") allege that Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. (collectively referred to as "Alcatraz")[2], and William

[2] 'Although only Alcatraz Media, LLC was involved in some of the alleged conduct, the Court will refer to the entities collectively for simplicity and because the Order applies to both entities.

M. Windsor are causing irreparable harm to Maid through Alcatraz's unauthorized business practices.

I. Factual and Procedural Background

Maid has operated boat rides in Niagara Falls since 1846. Maid sells tickets for its boat rides at its box offices in Niagara Falls, New York and Niagara Falls, Ontario. At all times relevant to the instant action, the price of an adult ticket was $11.50. Maid's two box off ices are the only places where individual tickets are available.

Vouchers for Maid tickets are also available as part of a tour package through authorized tour operators.[3] In this arrangement, the tour operator generates vouchers, which it issues to customers who purchase a tour package. The vouchers are then exchanged for tickets at Maid's box offices upon each tour group's arrival, The vouchers themselves do not gain a customer entry to the boat ride. Only after a customer has exchanged his or her voucher for a ticket can the customer gain entry.

Tickets are generated at Maid's two box offices. Tickets are handed to customers through a box office window (either in exchange for payment or a voucher), after which the customers continue past the box office and ride an elevator down to the

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[3] Maid has contracts with six tour operators for the sale of vouchers for Maid tickets as part of tour packages. Maid states that it does not enter into contracts with other parties for the sale of vouchers.

dockside. Tickets are collected at the dockside before customers board the boat. Tickets are given on a first-come-first-served basis at the box offices and are date stamped such that they can be used on that day only. Tickets do not bear any indication of time, and Maid does not offer reservations for time-specific tours.

Alcatraz operates a ticket brokerage business through its web site www.niagarafallstours.net.[4] Mr. Windsor is the father of Alcatraz's owner and participates in the management of Alcatraz. In July 2004, Alcatraz applied to Maid for credit for the purpose of selling individual vouchers for Maid tickets (as opposed to tour packages that include a voucher) on its website. Maid accepted Alcatraz's credit application.[5] Maid's letter stated, in part:

Thank you for returning the application for credit. We are pleased to offer your company credit with Maid of the Mist.
We now require a sample of your voucher for our approval.
We look forward to serving you and your clients this

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[4] Alcatraz and its affiliates operate several websites in addition to this one, but www.niaaarafallstours.net is the only website relevant to the instant action and will be referred to as Alcatraz's website.

[5] Maid also accepted the credit applications of two other ticket brokerage companies - www.looktours.com and www.vacationsmadseasy.com - for the sale of vouchers for the 2005 season.

coming season and await a copy of your voucher. (Letter from Midge Serrianne to William Windsor dated duly 27, 2004). This essentially established a credit arrangement under which consumers could purchase vouchers from Alcatraz and pay Alcatraz directly. Then Maid would charge Alcatraz the net rate price[6] of $9.65 for each adult voucher that was redeemed at its box offices. Alcatraz's credit application and Maid's letter of acceptance are the only documents that reflect an agreement between the companies.

Alcatraz sold vouchers for Maid tickets at a higher price than that charged for tickets at Maid's box offices. At the beginning of the 2005 season, for example, Alcatraz charged $13.95 per adult voucher (a $2.45 increase over the $11.50 price). Alcatraz states that the amount it charges over Maid's price is a booking fee which is justified by its advertising and operating expenses. Also, Alcatraz represented the "retail rate" of Maid's tickets as being higher than the price charged for tickets at Maid's box offices. For example, on March 9, 2006 and March 24, 2006, Alcatraz's website stated the prices as follows:

Retail Rate (Adult Retail Rate): $26.50
Adult Rate: $21.50
Savings: $5.00

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[6] The net rate price represents a "wholesale" discount from Maid's retail rate of $11.50 and was available to brokerage companies and tour operators.

Mr. Windsor testified that "retail rate" refers to Alcatraz's retail rate, which it sets based on the cost of obtaining tickets, advertising, paying service charges to credit card companies, and making a profit. Nowhere on Alcatraz's website did it state the price that Maid charged for tickets or the amount of the booking fee. Finally, Alcatraz sold time-specific vouchers, despite Maid's first-come-first-served system.

Alcatraz's website contained a Terms and Conditions section that included the following paragraph:

> -SERVICES PROVIDED: Alcatraz Media, Inc. provides a booking service, and Customer agrees that Alcatraz Media, Inc. has earned the full purchase price collected for processing orders whether or not Customer redeems the tickets or uses the tour/activity services requested. Alcatraz Media, Inc. provides booking services and delivers E-Tickets by the Internet, and Customer accepts that this is the services (sic) rendered by Alcatraz Media, Inc. Alcatraz Media, Inc. does not sell merchandise; Alcatraz Media, Inc. provides booking services.

The Terms and Conditions section was not visible on the page where customers purchase vouchers; rather, it was contained in a link at the bottom of the website on which a customer must click to see it.

Maid began receiving customer complaints near the beginning of the 2005 season, which started

in April. On June 14, 2005, Maid notified Alcatraz in writing that it would not accept Alcatraz's vouchers sold after the end of June 2005 due to consumer complaints and confusion. Specifically, Sandra Carlson, Assistant Controller for Maid, wrote to Mr. Windsor:

> We have received numerous complaints from our customers who have purchased their Maid of the Mist tickets through your company. We have had to turn people away because they do not present the proper paperwork, and because you require a copy of the voucher returned with your billing, most people do not arrive with two copies of their voucher and we must send them away to get another copy made.
> The prices for our attraction are clearly posted when
> customers arrive at the ticket booths. We have had to deal with very irate customers who feel they have been greatly overcharged for our attraction.
> Due to these problems and how these issues reflect on The Maid of the Mist, we will no longer be accepting your vouchers. Any trips that you have booked through the end of June 2005 will be honoured, but your credit privileges with both the Maid of the Mist Steamboat Company and the Maid of the Mist Corporation will no longer be in effect.

(Letter from Sandra Carson to William Windsor dated June 14, 2005).

Carolyn Ballard, who is in charge of business development for Alcatraz, then contacted Ms. Carlson to try to reach an agreement under which Maid would continue to accept Alcatraz's vouchers. Ms. Carlson stated, in part:

> Your business isn't a big loss financially, but it is a
> wonderful business for our customers who are signing up for several tours in Niagara Falls, along with Maid of the Mist.
> ...
> To know that you did not give us an opportunity to address any of the issues before simply dropping us seems hasty. I wonder if we might be allowed an opportunity to find a way to work together?

(E-mail from Carolyn Ballard to Sandra Carlson dated June 14, 2005).

Alcatraz and Maid subsequently reached an agreement regarding the paperwork problem, and Maid continued to accept Alcatraz's vouchers. On June 22, 2005, Ms. Ballard wrote to Mr. Windsor, in part:

> I just had a conference call with Christopher Glynn, Pres. and Bob Schull, Controller of Maid of the Mist. They have agreed to 'turn the clock back' and start all over. They even APOLOGIZED for the misunderstanding! They will clean everything up and get us back on the system by tomorrow. I told them that we would do our best to get them back up on

> our websites shortly as well.... we kissed and made up! (I told them I was humbled by their willingness to allow me to plead our case!)
> ...Turns out this all stems from one complaint: someone who claimed that they were charged $40 for 2 Maid of the Mist tickets.
> So, we are back on the team but with kid gloves on.
> Sandra hates us now for sure and will be watching us like hawks but I have the boss on our side...as long as we are good boys and girls, anyway!

(E-mail from Carolyn Ballard to William Windsor dated June 22, 2005).

However, on July 19, 2005, Maid again wrote Alcatraz because customer complaints continued. The letter stated, in part:

> The problems with the voucher seem to have been addressed and we appreciate your cooperation. However, we are still experiencing problems with pricing. Our President has witnessed customer dissatisfaction first-hand on his last two visits to the admissions area. These clients feel that they have been mislead [sic] and overcharged by Maid of the Mist as well as by Alcatraz. This is reflecting poorly on Maid of the Mist and it cannot continue.
> In order to remedy this issue we require Alcatraz Media to clearly state on the [voucher] what the Maid of the Mist charges

> for the boat tour and the amount of service charges that are added by your company.

(Letter from Sandra Carlson to Carolyn Ballard dated July 19, 2005). As a result, Alcatraz added some language regarding the booking fee to the vouchers. However, Alcatraz decided not to disclose Maid's retail rate or the booking fee on the website or the vouchers.

On July 29, 2005, Maid notified Alcatraz that it must immediately stop selling vouchers. The letter stated, in part: We believe that our desire for Alcatraz Media to eliminate the misleading website pricing of the Maid of the Mist Boat Tour has been clearly communicated on several occasions. Our admissions staff continue to receive complaints from patrons that purchased their E-vouchers from Alcatraz Media and feel they were over charged, misled, and taken advantage of. We find this customer feedback to be unacceptable and therefore request that you immediately discontinue the sale of [vouchers] for the Maid of the Mist Boat Tour and remove the tour from your website.

(Letter from Robert Schul to William Windsor dated July 29, 2005). On July 30, 3005, Maid posted a sign at its box offices that Alcatraz did not have authority to sell vouchers for Maid tickets and that Maid would not accept vouchers issued after July 29, 2005.

Beginning on July 30, 2005, Maid kept a log of how many Alcatraz vouchers were presented at its box offices. Maid documented 1,802 vouchers that were sold before July 29, 2005 and redeemed after

that date. Maid documented 894 vouchers that it did not honor based on the fact that they were sold by Alcatraz after July 29, 2005. Finally, Maid kept track of whether the customers whose vouchers were not honored thereafter purchased tickets from Maid. While most did, Maid documented nine adults who chose not to purchase tickets from Maid's box offices after Maid refused to honor their vouchers.

Counsel for Maid sent Alcatraz a cease-and-desist letter on August 5, 2005, threatening legal action if Alcatraz did not stop selling vouchers for Maid tickets. (Letter from Arthur Russ, Jr. to William Windsor dated August 5, 2005). Mr. Windsor responded by e-mail to Maid's counsel at least three times. One e-mail stated: "Your letter is false, and your client knows it is false."

(E-mail from William Windsor to Arthur Russ, Jr. dated August 6, 2005). A second e-mail stated:

> This is just a courtesy note to advise you that we are filing complaints today with the Attorney Generals of New York and Ontario, the Niagara Parks Commission, and the Better Business Bureaus in Niagara Falls, New York and Ontario.

(E-mail from William Windsor to Arthur Runs, Jr. dated August 8, 2005). A third e-mail stated:

I am so disappointed that you have not called. We have secured the testimony of three customers who will testify to the slander, trade libel and various wrongs perpetrated by employees of Maid of

the Mist. We have names, dates and times, and detailed comments. One of the Maid of the Mist supervisors even told a customer to call his bank and file a chargeback. I'm sure you know the various laws that violates.
I'm afraid we're going to clean up in court against you. Wouldn't you rather just pay us a seven figure amount and accept that we will be selling maid [sic] of the Mist tickets forever? Write us a big fat check. (E-mail from William Windsor to Arthur Russ, Jr. dated August 8, 2005).

Alcatraz continued to sell vouchers. On August 10, 2005, Alcatraz was charging $15.95 per adult voucher. Alcatraz had changed its representation of prices by this time. Alcatraz's website stated the prices as follows:
Our Rate: $20.95
Internet: $15.95
Save: $5.00

On August 12, 2005, Windsor wrote another e-mail to Maid's counsel stating:

> We have a contract. I have previously faxed a copy to you. I will send another copy to you. You should ask for copies of all the emails from Maid of the Mist to us. Makes for interesting reading. The Maid of the Mist staff is slandering Alcatraz Media, as you well know from one where I provided the details to you, and turning away people who bought tickets MONTHS ago. You should consider the consequences of Maid of the Mist's activity of stealing money from people who have already

paid and of denying [vouchers) from customers who paid Alcatraz Media.

Alcatraz Media has complied and continue [sic] to comply with all terms of the contract with Maid of the Mist. Therefore, Alcatraz Media will continue to sell. Alcatraz Media has no intention of EVER stopping to sell Maid of the Mist tickets. I myself, personally, am busily preparing a new web site that will solely sell Maid of the Mist tickets. In addition, I, personally, am applying to Niagara Parks Commission for a contract to operate a boat ride at Niagara Falls, and I will do everything in my power personally to see that Maid of the Mist loses the ability to operate at Niagara Falls or gets the competitor they so richly deserve.

Alcatraz Media is now providing form letters to all of our customers to enable them to quickly and easily file complaints with the Attorneys General and the Better Business Bureaus.

You have never responded to any of my many previous emails and faxes. Have you taken Alcatraz Media's settlement offer to your client? Alcatraz Media will settle for $4 million and a long-term contract to sell for Maid of the Mist. Please extend that offer to your clients. It must, however, specifically exclude Sandra Carlson, as Alcatraz Media is suing her personally. If you are not representing her, please advise the name and contact information for her attorney.

Mr. Windsor testified that the contract he was referring to was Alcatraz's credit application and Maid's letter accepting the application. Alcatraz later changed its prices again, and on August 18, 2005 it was charging $9.95 per adult ticket.

Maid filed a complaint requesting a temporary restraining order and injunctive relief in the Superior Court of Gwinnett County, Georgia on August 29, 2005. This complaint did not state a statutory basis for Maid's claim against Alcatraz. A hearing on the matter was set for October 28, 2005. Maid subsequently withdrew its motion because the 2005 season had ended, and it believed that Alcatraz had agreed not to sell vouchers for the 2006 season.

Between the 2005 and 2006 seasons, as a result of its poor experience with Alcatraz, Maid terminated its relationship with the two other ticket brokerages that sold individual vouchers (www.vacationsmadeeasy.com and www.looktours.com). Maid had not received any customer complaints regarding either of the other ticket brokerages. Maid asserts that both of the other ticket brokerages charge the face value of the ticket (the price Maid charges), such that their booking fee is only the difference between the ticket price and the net adult rate for which the brokerage purchased it.

Some time on or before February 6, 2006, Alcatraz began selling e-tickets for Maid's boat tours for the 2006 season. As used in this order, an e-ticket is different from a voucher in that a voucher is redeemed for a ticket by Maid at its box offices,

whereas an e-ticket is redeemed for a ticket by Alcatraz itself.[7] Windsor testified that Alcatraz planned to obtain tickets for which to redeem the e-tickets it issues either by buying them at Maid's box offices, buying them from another website, or buying gift certificates through Maid's corporate office.

In February 2006 and March 2006, Alcatraz still did not state Maid's ticket price or Alcatraz's booking fee on its website or on the printed e-tickets. On March 9 and 24, 2006, Alcatraz was charging $21.50 per adult e-ticket. Also, Alcatraz still represented a "retail rate" above the price charged by Maid.

Maid filed an updated brief in support of its request for temporary restraining order in the Superior Court of Gwinnett County, Georgia on March 20, 2006. Based on a statement in the updated brief that "Defendants have violated the Lanham Act and state unfair competition laws," Alcatraz removed the action to this Court on March 28, 2006. After reviewing documents originally filed in the Superior Court of Gwinnett County, this Court issued a temporary restraining order on March 30, 2006,

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[7] As noted previously, "e-ticket" has been used interchangeably with "voucher" in some of the parties' communications. However, the Court uses "e--ticket" to refer only to a print-out that Alcatraz would redeem for a ticket. Everything sold by Alcatraz during the 2005 season was a voucher, whereas everything sold by Alcatraz during the 2006 season was an e-ticket.

prohibiting Alcatraz from selling Maid vouchers or using Maid's name or image on its website altogether. The Court modified the temporary restraining order on April 3, 2006 to allow Alcatraz to sell tour packages that include Maid vouchers through Gray Line Tours because it was clear that Maid was not opposed to such sales.

The Court then held a hearing on Maid's request for injunctive relief on April 11 and 12, 2006. Christopher Glynn, President of Maid, testified for Maid. William Windsor testified for Alcatraz. At the conclusion of the hearing, the Court directed Maid to file proposed findings of fact and conclusions of law ("PFFCL") by April 19, 2006 and for Alcatraz to file a response by April 26, 2006. The Court also extended the temporary restraining order in place until further order. The parties filed their respective documents, as directed.[8]

For the first time in its PFFCL, Maid identified the specific statutory basis of its claim against Alcatraz. Maid alleges two state law causes

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[8] Then, on May 3, 2006, Maid filed the Affidavit of Timothy P. Ruddy, which stated some changes to Maid's- PFFCL, along with a Corrected PFFCL. Defendants subsequently objected to Maid's filing of the Affidavit and Corrected PFFCL and asked the Court to strike these from the record. Because Defendants do not have a chance to respond, the Court will not consider the late-filed documents. Defendants' Objection to Plaintiff s' Notice of Filing of Affidavit of Timothy P. Ruddy is SUSTAINED.

of action - tortious or intentional interference with business relations under Georgia common law, and false or fraudulent advertising under O.C.G.A. § 10-1-421.

II. Maid's Request for Preliminary Injunction

Maid requests the court to enjoin Alcatraz and its affiliates from selling individual vouchers and/or e-tickets; from using Maid's name or images to sell individual vouchers and/or etickets; from participating in schemes to attempt to sell individual vouchers and/or e-tickets; and from contacting third parties such as the Better Business Bureau and Niagara Parks Commission regarding Maid. Maid is not requesting that Alcatraz and its affiliates be enjoined from selling tour packages through Gray Line Tours of Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours.

To obtain a preliminary injunction, the moving party must show "(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." Four Seasons Hotels & Resorts, B.V. v. Consorcio Barry S,A., 320 F.3d 1205, 1210 (11th Cir. 2003). The moving party has the burden of persuasion as to all four requirements. Id.

A. False or Fraudulent Advertising

Maid alleges that Alcatraz violated O.C.G.A. § 10-1-421 by providing false information on its website as to the validity, availability, and price of tickets for Maid of the Mist boat rides.

O.C.G.A. § 10-1-421 provides:

> (a) No person, firm, corporation, or association or any employee thereof, with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or to do anything of any nature whatsoever to induce the public to enter into any obligation relating thereto, shall make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, radio, television, or advertising device or by public outcry or proclamation or any other manner or means whatever, any statement concerning such real or personal property or services, professional or otherwise, or concerning any circumstances or matters of fact connected with the proposed performance or disposition there which is untrue or fraudulent and which is known or which by the exercise of reasonable care should be known to be untrue or fraudulent.

O.C.G.A. § 10-1-423 then provides for injunctive relief:

> Any person, firm, or corporation offering through advertising merchandise, commodities or services for sale in violation of Code section 10-1-420, 10-10-421, or 10-1-422 may be enjoined from such advertising by the superior court having jurisdiction, upon the suit of any person aggrieved or about to be aggrieved thereby.

Alcatraz asserts that the Court cannot grant injunctive relief even if it were to find a violation of O.C.G.A. 10-1-421 based on the language in O.C.G.A. S 10-1-423 that a party "may be enjoined from [illegal] advertising by the superior court having jurisdiction." The Court agrees. Given this language, it appears that the Court cannot grant injunctive relief under the Georgia false advertising statute. Thus, Maid's request for a preliminary injunction is denied as to its false advertising claim.

Nevertheless, the Court notes that Maid could likely establish a claim under this statute. On its website, Alcatraz consistently stated as the "retail rate" a price that was different than that charged at Maid's box offices. According to Mr. Windsor, Alcatraz used "retail rate" to refer to its own retail rate, rather than to Maid's retail rate. However, this use is clearly misleading. Without further explanation, the "retail rate" of a Maid ticket means the price at which a customer could buy an individual ticket from Maid. It was also misleading for Alcatraz to offer reservation times for customers buying vouchers, given that Maid operates on a first-come-First-served basis and does not honor reservations.

B. Intentional Interference with Business Relations

Maid has also raised a claim of intentional interference with business relations under Georgia law. Maid argues that Alcatraz intentionally interfered with Ma id's business relations by selling vouchers after July 29, 2005, the date on which Maid revoked Alcatraz's authority to sell vouchers.

To establish a claim of intentional interference with business relations, a plaintiff must prove that the defendant: "(1) acted improperly and without privilege, (2) purposely and with malice with the intent to injure, (3) induced a third party or parties not to enter into or continue a business relationship with the plaintiff, and (4) for which the plaintiff suffered some financial injury." Haves v. Irwin, 541 F. Supp. 397, 429 (N.D. Ga. 1982). A claim of intentional interference with business relations exists for interference with prospective business relations, in addition to existing ones. Id. However, "to establish a cause of action for interference with prospective business relations, the plaintiff must demonstrate that absent the interference, those relations were reasonably likely to develop in fact." Id.

In the context of intentional interference with business relations, "[p]rivilege means a legitimate or bona fide economic interest of the defendant or a legitimate relationship of the defendant with the [business relationship), which causes the

defendant not to be considered a stranger, interloper, or meddler.." Culpepper v. Thompson, 254 Ga. App. 569, 571-72 (Ga. Ct. App. 2002). "[I]mproper conduct means wrongful action that generally involves predatory tactics such as physical violence, fraud or misrepresentation, [or] defamation." Summers Co. v. Moore, 275 Ga. App. 604, 606 (Ga. Ct. App. 2005). Also, the term "with malice" is construed liberally: "The act is malicious when it is done with knowledge of the plaintiff's rights and with the intent to interfere with them. Personal ill will or animosity is not essential to a finding of malice." Haves, 541 F. Supp. At 429 (internal citations omitted).

Alcatraz argues that its actions constituted fair competition and were not intended to injure Maid, but rather were for its own benefit. Georgia courts recognize a defense of competition privilege, which requires a defendant to prove: "(1) that the relation concerns a matter involved in the competition between the actor and the competitor, (2) that the actor does not employ improper means, (3) that the actor does not intend thereby to create or continue an illegal restraint of competition, and (4) that the actor's purpose at least in part is to advance its interest in its competition with the other." Id. at 430.

1. Likelihood of Success on the Merits

The court will address each of the four elements of this claim in turn.

The Court finds a likelihood of success that Maid can prove the first element, that Alcatraz acted improperly and without privilege. After July 29, 2005, Alcatraz knew that it was not authorized to sell vouchers for Maid tickets and that its vouchers would not be honored. Despite this, Alcatraz continued to sell vouchers on its website (and later sold e-tickets for the 2006 season even before it had secured a source for Maid tickets). Also, Alcatraz continued to misrepresent the "retail rate" of Maid tickets despite being informed repeatedly of the problem such representation had caused. Even when Alcatraz changed the pricing representation to "our rate," it still was deceptive with regard to the price of Maid tickets given the statements directly beneath that customers "save: $5.00." Alcatraz's actions were improper because they were misleading to consumers. Alcatraz was acting without privilege because it had no legitimate interest in the business relationship between Maid and consumers who wanted to purchase a ticket for a boat ride. Rather, Alcatraz was an outside party to the relationship.

The Court finds that Maid is likely to prove the element of malice with intent to injure as well. Alcatraz clearly knew of Maid's authority to operate boat rides in Niagara Falls and to sell tickets to its own rides. Further, Mr. Windsor's e-mails demonstrate an intent to interfere with Maid's rights and to injure Maid. The attitude conveyed in his e-mails goes well beyond honest competition. Alcatraz's adjustment of pricing from $13.95 to $9.95 to $21.50 per adult voucher/e-ticket further suggests that it was not engaged in honest competition.

Alcatraz temporarily charged below Maid's retail price, despite that Alcatraz would not profit and may even lose money from such sales, seemingly just to "get back" at Maid. Then, for the 2006 season, Alcatraz raised its price to a full $10.00 above Maid's retail price, which, of course, would increase its profit per sale, but would also heighten customer complaints about pricing (especially because Alcatraz represented the "retail rate" to be $26.50). By this time, Alcatraz was well aware that such complaints were causing trouble at Maid's box offices and apparently was willing to make the situation worse. Finally, while this action was pending, Mr. Windsor called Maid without identifying himself and asked about options for buying tickets other than personally going to Maid's box offices in an effort to trick Maid into supplying tickets that Alcatraz could use to redeem its e-tickets.

Maid has shown a likelihood of proving that Alcatraz indirectly induced consumers not to enter into a business relationship with Maid. Alcatraz sold vouchers knowing that they would not be honored. It was foreseeable that individuals who purchased vouchers and had them dishonored when they showed up for a boat ride would be angry at Maid for dishonoring them. This is especially true given that the individuals also could see that they had paid more per voucher than the price of a ticket. Of the 894 individuals whose vouchers Maid did not honor, nine adults refused to buy Maid tickets. Thus, Alcatraz indirectly induced these individuals, who wanted and intended to take a Maid boat ride, not to do business with Maid. In addition, Alcatraz's

extreme over-charging for e-tickets was likely to sour customers' experiences with Maid enough that they would not do business with it in the future, and possibly even tell their friends not to do business with Maid in the future. Finally, Alcatraz created form letters for its customers to file complaints against Maid with the Better Business Bureaus and Attorneys General of New York and Ontario (or at least Mr. Windsor claimed that Alcatraz had done so). Such conduct also purposely turned potential Maid customers against Maid and likely induced them not to do business with Maid in the future.

As for the fourth element, the only documented financial injury is the loss of nine adult ticket sales from people who decided not to purchase tickets from Maid after Maid refused to accept vouchers they had purchased from Alcatraz after July 29, 2005. Nevertheless, this is sufficient to establish a likelihood that Maid will prove this element of the claim. Furthermore, Maid could likely show damage to its reputation resulting from the sale of vouchers and e-tickets that would translate into financial injury.

In addition, because Maid is claiming interference with prospective business relations, it must show that the business relations were reasonably likely to develop absent the interference. With regard at least to the nine individuals who purchased vouchers from Alcatraz and refused to purchase a Maid ticket after their vouchers were not honored, it was likely that they would have entered into business relations with Maid absent Alcatraz's conduct. Indeed, these individuals had a great

enough desire to take a Maid boat ride that they had purchased vouchers in advance. Further, there is a reasonable likelihood that anyone who sought to purchase a voucher or e-ticket for a Maid boat ride would enter into business relations with Maid directly were they not to purchase the voucher or e-ticket.

The Court finds it unlikely that Alcatraz will succeed in proving that its conduct was protected by the competition privilege. While much of Alcatraz's conduct was for its own benefit, to qualify for the defense of competition privilege, Alcatraz would have to show that it did not employ improper means. Alcatraz has not shown a likelihood that it could do so, as the analysis above reflects. Therefore, Maid has shown a likelihood of success on the merits of its intentional interference with business relations claim.

2. Irreparable Harm

Alcatraz would suffer little to no irreparable harm if the injunction issues. Rather, Alcatraz would suffer financial harm from its loss of booking service fees associated with its sale of Maid e-tickets. Such damage is calculable, and Alcatraz could be compensated monetarily if Maid ultimately does not succeed on the merits of its claim. The Court notes that there is no indication that Maid would be unable to pay an award of damages.

Maid, on the other hand, would suffer damage to its reputation and goodwill. Maid has operated boat rides in Niagara Falls since 1846, and its reputation is important to its business. The value of

the harm caused by Alcatraz's actions would be difficult, if not impossible, to calculate. See Bellsouth Telecomms, Inc. v. MCImetro Access Transmission Servs. 425 F.3d 964, 970 (11th Cir, 2005) ("Although economic losses alone do not justify a preliminary injunction, the loss of customers and goodwill is an irreparable injury.") (internal quotation omitted). Thus, Maid has met its burden of persuasion on the irreparable harm factor.

3. Balance of Hardships

The balance of hardships element considers the threatened injury to Maid outweighs the injury that the proposed injunction will cause Alcatraz. See Shatel Corp, v. Mao Ta Lumber & Yacht Corp., 697 F.2d 1352, 1354-55 (11th Cir. 1983). Alcatraz has made varying statements as to the importance to its business of selling individual Maid tickets. Carolyn Ballard stated that Alcatraz made a profit of only 64 cents per voucher when it sold vouchers for $13.95, (E-mail from Carolyn Ballard to Sandra Carlson dated August 9, 2005), and that Maid's business "isn't a big loss financially." (E-mail from Carolyn Ballard to Sandra Carlson dated June 14, 2005). However, in a document filed in the instant action, Alcatraz claimed that a large percentage of the profits from its website are derived from the sale of Maid vouchers. It is unclear what percentage actually derives from individual Maid vouchers, as opposed to tour packages that include a Maid voucher, which Alcatraz would be allowed to continue selling if an injunction issues. Nevertheless, Alcatraz operates several websites in addition to the website at issue here and sells tours

and attractions from over 800 companies. This suggests that only a small portion of Alcatraz's business would be shut down by an injunction and that it would not be forced to adjust its number of employees or make other major changes. Furthermore, Alcatraz sold vouchers and/or e-tickets for a limited number of months only, whereas Maid has operated and sold tickets to boat rides for 160 years. Without an injunction, Maid stands to suffer further harm to its long-established reputation , and goodwill, as well as disruption at its box offices. The Court finds that Maid has met its burden of persuasion as to the balance of hardships being in its favor.

4. Public Interest

It would not be against the public interest to issue an injunction. In fact, it is arguably in the public's interest to stop Alcatraz's conduct, which has been shown to cause consumer confusion and complaints. Thus, Maid has met its burden of persuasion on this factor as well.

III. Conclusion

The Court finds that Maid has shown the elements required to obtain a preliminary injunction on its claim of intentional interference with business relations. Accordingly, Maid's request for preliminary injunction [#I] i s GRANTED. Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor, and their affiliates[9] are hereby enjoined until further Court order from:

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[9] This applies to all those acting in concert with Defendants or any of Defendants. This includes, but

selling individual[10] vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from using Maid of the Mist's name or images to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from participating in schemes to attempt to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; and from filing false reports with the Better Business Bureaus of New York and Ontario. Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor and their affiliates are not enjoined from selling tour packages through Gray Line Tours of Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours which include Maid of the Mist tickets or vouchers.

Defendants' Objection to Plaintiffs' Notice of Filing of Affidavit of Timothy P. Ruddy [#31] is SUSTAINED.

SO ORDERED, this 11 day of May, 2006.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

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is not limited to: Reserve XL; Round America, LLC; Everybody Loves Travel, LLC; Reserve 123; Take 5 Tours; ZZ Tours; and those entities using Reserve XL software to sell tours as agents of Alcatraz.

[10] Individual" refers to the fact that the voucher/e-ticket is sold by itself, as opposed to being a part of a tour package. This Order does not permit the enjoined parties to sell multiple "individual" vouchers, tickets or e-tickets together.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

This civil suit for equitable relief is before the Court on a number of motions. These motions are: Defendants' Motion to Compel Discovery Responses and for Attorney Fees; Defendants' Motion for Leave to Take More than 10 Depositions and for Extension of Time to Complete Discovery; Plaintiffs' Emergency Motion for Protective order and to Quash Notices of 30(b)(6) Deposition; Defendants' Motion for Leave to File Proposed Amended Answer and Counterclaims; Defendants' Motion for Hearing; Plaintiffs' Emergency Motion for Protective Order and to Quash Notices of Deposition to Maid of the Mist Steamboat Company, Ltd. and Maid of the Mist

Corporation; Defendants' Motion for Leave of Court to Extend Deposition; Plaintiff's Motion for Protective Order and to Quash Notice of 30 (b) (6) Deposition for Maid of the Mist Corporation; Defendants' Second Motion for Leave to Extend Depositions; and Plaintiffs' Motion to Strike Motion for Leave to File Proposed Amended Answer and Counterclaim.

The Court first turns to Defendants' Motion for Leave to File Proposed Amended Answer and Counterclaims. This motion was filed on December 12, 2006, about nine months after the original answer to the complaint was filed. The Court finds it is too late to file an amended answer and counterclaim. Accordingly, Defendants' Motion for Leave to File Proposed Amended Answer and Counterclaims [#98] is DENIED.

Similarly, the Court believes that the parties have had ample time to conclude discovery in this case. As the Court sees it, this is a relatively straightforward, simple case. There has been enough time to conclude discovery. The discovery which has been concluded is adequate. Accordingly, the Court makes the following rulings: Defendants' Motion for Leave to Take More than 10 Depositions and for Extension of Time to complete Discovery [#63] is DENIED; Plaintiffs' Emergency Motion for Protective Order and to Quash Notices of 30(b)(6) Deposition [#96] is GRANTED; Defendants' Motion for Hearing [#145] is DENIED; Plaintiffs' Emergency Motion for Protective order and to Quash Notices of Deposition to Maid of the Mist Steamboat Company, Ltd. and Maid of the Mist Corporation [#106] is

GRANTED; Defendants' Motion for Leave of Court to Extend Deposition [#118] is DENIED; Plaintiffs' Motion for Protective Order and to Quash Notice of 30 (b)(6) Deposition for Maid of the Mist Corporation [#119] is GRANTED; Defendants' Second Motion for Leave to Extend Depositions [#122] is DENIED; and Plaintiffs' Motion to Strike Motion for Leave to File Proposed Amended Answer and Counterclaim [#124] is DISMISSED as moot.

A hearing will be held on Defendants' Motion to Compel Discovery Responses and for Attorney Fees [#59] filed November 21, 2006 in Chambers 1988, U.S. Courthouse, 75 Spring Street, Atlanta, Georgia on Friday, February 2, 2007 at 11:00 a.m.

SO ORDERED, this 17 day of January, 2007.

/s
ORINDA D. EVANS
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER PERMITTING THE FILING
OF DOCUMENTS UNDER SEAL

On Plaintiffs' Motion Permitting the Filing of Certain Documents Under Seal to Place Certain Documents Under Seal has been filed by Plaintiffs in the above-styled action and the Court having reviewed and considered said Motion; and for good cause shown,

IT IS HEREBY ORDERED that the Motion be GRANTED and Plaintiffs are permitted to file certain documents under seal.

This 13 day of February, 2007.
/s
Hon. Orinda D. Evans, Chief Judge

United States District Court
Northern District of Georgia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

This civil suit for injunctive relief is before the Court on Defendants' Motion for Summary Judgment [#146], Plaintiffs' Motion for Summary Judgment [#148], Defendants' Request for a Hearing [#223], Plaintiffs' Motion to Strike [#237], Defendants' Motion for Leave to File [#241], Defendants' Motion for Clarification and to Strike [#243], and Plaintiffs' Motion to Strike Affidavit [#250].

The parties to this action established a relationship in 2004 whereby Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (hereinafter collectively referred to

as "Maid" or "Plaintiffs") authorized Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. (hereinafter collectively referred to as "Alcatraz")[11] to sell individual vouchers for tickets to ride Maid of the Mist's Niagara Falls boats on their website. The relationship deteriorated after the inception of the 2005 Maid of the Mist season and Maid eventually notified Alcatraz that it would no longer honor Alcatraz vouchers after July 29, 2005. Alcatraz's decision to continue selling individual vouchers after July 29, 2005 despite the notice from Maid that those vouchers would not be honored gave rise to the instant tortious interference with business relations action. Maid seeks a permanent injunction against Alcatraz's future sale of Maid vouchers as well as attorney's fees and costs.

Alcatraz contends that it is entitled to summary judgment on Maid's tortious interference with business relations claim because Maid cannot establish that Alcatraz induced any potential Maid customers to discontinue or fail to enter into a business relationship with Maid. Alcatraz also contends that Maid has suffered no financial injury as a result of Alcatraz's actions.

Maid asserts that it is entitled to summary judgment because Alcatraz tortiously interfered in

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[11] Although only Alcatraz Media, LLC was involved in some of the alleged conduct, the Court will refer to the entities collectively for simplicity and because the Order applies to both entities.

Maid's business relationship with its customers by continuing to sell Maid vouchers after July 29, 2005. Maid also seeks summary judgment with respect to Alcatraz's counterclaims alleging promissory estoppel, breach of contract, slander, and violation of the Georgia Fair Business Practices Act.

For the following reasons, Defendants' Motion for Summary Judgment [#146] is DENIED. Plaintiffs' Motion for Summary Judgment [#148] is GRANTED. Defendants' Request for a Hearing [#223] is DENIED. Plaintiffs' Motion to Strike [#237] is DISMISSED AS MOOT. Defendants' Motion for Leave to File [#241] and Motion for Clarification and to Strike [#243] are DISMISSED AS MOOT. Likewise, Plaintiffs' Motion to Strike Affidavit [#250] is DISMISSED AS MOOT.

I. Factual and Procedural Background

Unless otherwise noted, the following facts are undisputed.[12]

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[12] The Court finds that both parties have failed to comply with N.D. Ga. Local Rule 56.1(B)(1), which states: A movant for summary judgment shall include with the motion and brief a separate, concise, numbered statement of the material facts to which the movant contends there is no genuine issue to be tried. Each material fact must be numbered separately and supported by a citation to evidence proving such fact. The court will not consider any fact: (a) not supported by a citation to evidence (including page or paragraph number); (b) supported by a citation to a pleading rather than to evidence;

The Court derives the facts from the evidence received upon Plaintiffs' application for a preliminary injunction along with the parties' pleadings, depositions, and attachments and exhibits thereto.[13]

(c) stated as an issue or legal conclusion; or (d) set out only in the brief and not in the movant's statement of undisputed facts. Maid's Statement of Undisputed Facts is replete with improper citations to this Court's Order on Maid's motion for preliminary injunction rather than to evidence in the record. Alcatraz's Statement of Undisputed Facts contains few facts and is little more than a reactionary document listing the facts upon which Alcatraz disagrees with Maid. Nonetheless, the Court finds that it is possible to determine which facts are undisputed and has reconstructed the facts in this section of the order.

[13] In their Response to Maid's Statement of Material Facts [##221-2] Alcatraz repeatedly objects to Maid's reliance upon exhibits and testimony presented during the preliminary injunction hearing held before this Court on April 11, 2006. Specifically, Alcatraz argues that "preliminary findings of fact are not evidence nor binding on a decision on the merits." Defs.' Response to.'Pls. Statement of Material Facts at 1. The Court agrees with Alcatraz that Maid may not rely on findings of fact from the preliminary injunction phase as support for their motion for summary judgment. However, that does not mean that the testimony and evidence presented at the preliminary injunction stage are not evidence that can be considered at the summary judgment

Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Limited, have operated boat tours in Niagara Falls since 1846. Maid of the Mist sold approximately 2.5 million tickets for its tours during the 2005 season.

In 2005, Maid sold tickets for its tours in three ways: (1) individual "walk-up" ticket purchases at Maid's box offices in Niagara Falls, New York, and Niagara Falls, Ontario; (2) vouchers available as part of a tour package sold by tour operators authorized by Maid; and (3) individual vouchers available through three Internet resellers, specifically www.niagarafallstours.net, www.looktours.com, and www.vacationsmadeeasy.com.

In 2005, if a customer purchased a voucher for a ride on one of Maid's boats, the customer had to exchange that voucher for a ticket at one of Maid's box offices to gain entry to the boat ride. Maid

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phase. Federal Rule of Civil Procedure 65(a)(2) provides: "any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial. " Accordingly, citations to and quotations from exhibits admitted as evidence at the preliminary injunction hearing are properly considered at this summary judgment phase if they would also be admissible at a trial on the merits.

tickets were issued on a "first-come-first-serve" basis at the box office, whether customers purchased their tickets at the box office or whether customers traded a pre-purchased voucher for a ticket at the box office. Tickets were date-stamped and could be used only on the date they were stamped. Customers could not make reservations for tours at a specific time.

Defendants Alcatraz Media, LLC, and Alcatraz Media, Inc., operate a ticket brokerage business through a web site, www.niagarafallstours.net.[14] Defendant William Windsor ("Windsor") is the father of Alcatraz's owner and participates in the management of Alcatraz.

In July 2004, Alcatraz applied to Maid for credit for the purpose of selling individual vouchers for Maid tickets (as opposed to tour packages that include a voucher) on its website. Maid approved Alcatraz's credit application. Maid's letter stated, in part:

> Thank you for returning the application for credit. We are pleased to offer your company credit with Maid of the Mist.
> We look forward to serving you and your clients this coming season...

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[14] Alcatraz and its affiliates operate several websites in addition to this one, but www.niagarafallstours.net is the only website relevant to the instant action and will be referred to as Alcatraz's website.

Windsor Dep., Ex. 3. This essentially established a credit arrangement under which customers could purchase vouchers from Alcatraz and pay Alcatraz directly. Maid would charge Alcatraz the net rate price[15] of $9.65 for each adult voucher that was redeemed at its box offices. During the 2005 season, the regular price of an adult ticket for a Maid tour was $11.50.

According to Defendants, in addition to the credit arrangement described above, Alcatraz provided Maid with a credit card authorization to assure that Maid would be paid for the vouchers Alcatraz sold on its website. This meant that when an Alcatraz customer arrived at the Maid ticket booth with an Alcatraz voucher, Maid either could charge Alcatraz's credit card for the customer's tour ride ticket or could send Alcatraz an invoice for that ticket and any others issued to Alcatraz customers during the invoice period.

Maid entered into similar arrangements with two other ticket brokerage companies, www.vacationsmadeeasy.com as well as www.looktours.com, for the sale of vouchers for the 2005 season.

Having established a relationship with Maid, Alcatraz began selling individual vouchers for Maid of the Mist tickets for the 2005 season. Alcatraz

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[15] The net rate price represents a "wholesale" discount from Maid's retail rate of $11.50 and was available to other brokerage companies and tour operators in addition to Alcatraz.

charged $13.95 per adult voucher, $2.45 more than the retail price an adult would pay for a ticket at Maid's box office and $4.30 more than the price Alcatraz paid Maid for the voucher. According to Alcatraz, the price it charged for Maid vouchers was calculated to cover costs such as the cost of obtaining the vouchers from Maid, advertising, and paying service charges to credit card companies, and also to allow Alcatraz to make a profit.

The manner in which Alcatraz listed the price of Maid vouchers on its website implied that Alcatraz was giving online customers a discount. For example, at the beginning of the 2005 season Alcatraz represented that the price of a voucher was $18.95 but that website customers were eligible for a $5.00 interned discount and therefore only paid $13.95. Tr, of Prelim. Inj. Hr'g at 20:16-18. Alcatraz did not provide the retail price of Maid's tickets on its website, nor did it provide the retail price of Maid's tickets on the vouchers it sold. In addition to charging a higher price than Maid's retail price for adult vouchers, Alcatraz initially sold customers time-specific vouchers for rides on Maid of the mist boats.

Problems arose between the parties after Maid began receiving complaints from customers who had purchased individual vouchers from Alcatraz for boat tours of Niagara Falls. According to Maid, these customers were arriving at the Maid box office with improper paperwork and Maid was having to send them away to return with proper paperwork. Maid asserts that customers were also irate when they realized that Alcatraz had charged

them several dollars more for their vouchers than they would have had to pay for tickets at the Maid box office. Maid also asserts that customers who had purchased vouchers from Alcatraz thought that they had purchased tickets for a Maid tour at a specific time, and these customers were angry upon arriving at the Maid box office and learning that Maid does not issue tickets for tours at specific times.

As a result of these problems, Sandra Carlson, Assistant Controller for Maid, notified Alcatraz inn writing on June 14, 2005, that it would not accept Alcatraz's vouchers sold after the end of June 2005. Alcatraz Dep., Ex. 33. Carolyn Ballard, an independent contractor who does business development work for Alcatraz, contacted Maid via email on June 14, 2005, to attempt to reach an agreement with Maid so that Maid would continue to accept individual vouchers sold by Alcatraz. Ballard implied in her email that Alcatraz hoped Maid would give it an opportunity to address issues Maid was having with Alcatraz before Maid terminated its credit arrangement with Alcatraz. Windsor Dep., Ex. 8; Alcatraz Dep., fix. 34.

Carlson replied via email to Ballard on June 16, 2005, stating that Maid required Alcatraz to resolve certain issues in order to continue its credit arrangement with Maid. Specifically, Carlson told Ballard that Alcatraz would need to (1) ensure that its customers arrived at the Maid box office with the proper paperwork, (2) remove any reference to a tour at a specific time from the vouchers issued to Alcatraz customers for Maid tours, (3) charge no more for a tour ticket than Maid's retail price of

$11.50, and (4) clearly state Alcatraz's service charges on the www.niagarafallstours.net website. Windsor Dep., Ex. 8.

Ballard responded to Carlson's email on June 16, 2005. Ballard told Carlson that Alcatraz could not comply with Maid's requirements as to the price and the service charge Alcatraz asked customers to pay for individual vouchers for Maid tours. According to Windsor, Alcatraz would lose money if it charged only $11.50 as Maid requested. Therefore, Alcatraz could not agree to those terms. Alcatraz Dep., Ex. 36.

Alcatraz and Maid subsequently reached an agreement regarding the paperwork problems, and Maid continued to accept Alcatraz vouchers. Alcatraz discontinued its practice of selling customers time-specific vouchers but did not lower its prices or state the specific amount of its service charges on its website or on the face of the vouchers. On June 22, 2005, Ballard spoke with Christopher Glynn, President of Maid. Later that day, Ballard described the call to Windsor in an email:

> I just had a conference call with Christopher Glynn, Pres. and Bob Schull, Controller of Maid of the Mist. They have agreed to 'turn the clock back' and start all over. They even APOLOGIZED for the misunderstanding! They will clean everything up and get us back on the system by tomorrow. I told them that we would do our best to get them back up on our websites shortly as well.... we kissed and

made up! (I told them I was humbled by their willingness to allow me to plead our case!) Turns out this all stems from one complaint: someone who claimed that they were charged $40 for 2 Maid of the Mist tickets.
So, we are back on the team but with kid gloves on.
... I have the boss on our side...as long as we are good boys and girls, anyway!

Windsor Dep., Ex. 9.

However, on July 19, 2005, Maid again wrote Alcatraz because customer complaints had continued. The letter stated, in part:

> The problems with the voucher seem to have been addressed and we appreciate your cooperation. However, we are still experiencing problems with pricing. Our President has witnessed customer dissatisfaction first-hand on his last two visits to the admissions area. These clients feel that they have been mislead [sic] and overcharged by Maid of the Mist as well as by Alcatraz. This is reflecting poorly on Maid of the Mist and it cannot continue.
>
> In order to remedy this issue we require Alcatraz Media to clearly state on the [voucher] what the Maid of the Mist charges for the boat tour and the amount of service charges that are added by your company.

Alcatraz Dep., Ex. 38. As a result, Alcatraz added some language regarding the booking fee to the vouchers. However, Alcatraz decided not to disclose Maid's retail rate or its own booking fee on the website or the vouchers.

On July 29, 2005, Maid notified Alcatraz that it must immediately stop selling vouchers. The letter stated, in part:

> We believe that our desire for Alcatraz Media to eliminate the misleading website pricing of the Maid of the Mist Boat Tour has been clearly communicated on several occasions. Our admissions staff continue to receive complaints from patrons that purchased their E-vouchers from Alcatraz Media and feel they were over charged, misled, and taken advantage of. We find this customer feedback to be unacceptable and therefore request that you immediately discontinue the sale of [vouchers] for the Maid of the Mist Boat Tour and remove the tour from your website.

Rod Smith Dep., Ex. 26. On July 30, 3005, Maid posted a sign at its box offices that Alcatraz did not have authority to sell vouchers for Maid tickets and that Maid would not accept vouchers issued after July 29, 2005. When customers attempted to redeem vouchers purchased from Alcatraz, Maid employees explained that Alcatraz did not have authority to sell the vouchers. Maid employees also told some Alcatraz customers that Alcatraz was a "scam." See Rod Smith Dep., Ex. 24

Beginning on July 30, 2005, Maid kept a log of how many Alcatraz vouchers were presented at its box offices. Maid documented 1,802 vouchers that were sold before July 29, 2005 and redeemed after that date. Maid documented 894 vouchers that it did not honor based on the fact that they were sold by Alcatraz after July 29, 2005. Finally, Maid kept track of whether the customers whose vouchers were not honored thereafter purchased tickets from Maid.

Maid' s decision not to honor Alcatraz vouchers after July 29, 2005, resulted in a number of Alcatraz customers expressing confusion and anger with both Maid and Alcatraz. Alcatraz submits a declaration by one customer, Jeff Crist, who said that the Maid supervisor with whom he spoke about Maid's refusal to honor his Alcatraz voucher was "very rude" and "made me feel like we were ripping them off and that we had some how (sic] done something wrong." Crist Decl. at $$ 14-15. Another Alcatraz customer whose voucher was not honored by Maid declared that he "felt like Maid should have honored our e-tickets and should have been more apologetic." Havens Aff. at ¶¶ 1 5 -16.

On the other hand, Maid submits that several customers chose not to purchase tickets from Maid's box offices after Maid refused to honor their vouchers. Maid felt it necessary to give one particularly irate Alcatraz customer five complimentary vouchers for rides on Maid boat tours. Maid also alleges that it sold tickets to Alcatraz customers for below-retail prices to assuage them after Maid refused to honor their Alcatraz vouchers. Additionally, Maid asserts that it gave

Alcatraz customers complimentary souvenirs in an effort to mitigate Alcatraz's damage to Maid's goodwill.

Despite the contentious relationship between the parties, Alcatraz never failed to pay Maid for tickets Maid issued based on Alcatraz vouchers. Even after Maid instructed Alcatraz to stop selling vouchers for rides on Maid's boats, Maid continued to send Alcatraz invoices for tickets issued to Alcatraz customers whose vouchers were purchased before July 29, 2005.

Counsel for Maid sent Alcatraz a cease-and-desist letter on August 5, 2005, threatening legal action if Alcatraz did not stop selling vouchers for Maid tickets. See Windsor Dep., Ex. 11. Mr. Windsor responded by e-mail to Maid's counsel at least three times. One e-mail stated: "Your letter is false, and your client knows it is false." Windsor Dep., Ex. 14; Rod Smith Dep., fix. 24. A second e-mail stated:

> This is just a courtesy note to advise you that we are filing complaints today with the Attorney Generals of New York and Ontario, the Niagara Parks Commission, and the Better Business Bureaus in Niagara Falls, New York and Ontario.

Windsor Dep., Ex. 14, Rod Smith Dep., Ex. 24. A third e-mail stated:

> I am so disappointed that you have not called. We have secured the testimony of three customers who will testify to the slander,

> trade libel and various wrongs perpetrated by employees of Maid of the Mist. We have names, dates and times, and detailed comments. One of the Maid of the Mist supervisors even told a customer to call his bank and file a chargeback. I'm sure you know the various laws that violates. I'm afraid we're going to clean up in court against you. Wouldn't you rather just pay us a seven figure amount and accept that we will be selling maid [sic] of the Mist tickets forever? Write us a big fat check.

Windsor Dep., Ex. 14; Rod Smith Dep., Ex. 24. On August 9, 2005, Windsor wrote to the New York State Attorney General and the Ontario Attorney General and told them that Maid had breached a valid contract. Windsor also filed a formal complaint with the Better Business Bureau of South Central Ontario on August 9, 2005. Windsor Dep., Ex. 7.

Alcatraz continued to sell Maid vouchers. It was Alcatraz's position that it had a contract with Maid to sell individual vouchers for tours on Maid's boats. It was also Alcatraz's position that its agreement with Maid did not set a price it must charge customers for those vouchers. Although Alcatraz still charged $13.95 per adult voucher on July 29, 2005, see Prelim. Inj. Hr'g, Ex. 24, Alcatraz changed the price it charged for an adult voucher several times over the following weeks and months. For example, on August 10, 2005, Alcatraz charged $15.95 per adult voucher. Prelim. Inj. Hr'g, Ex. 12. On August 15, 2005, Alcatraz charged $21.50 per adult voucher. Alcatraz Dep., Ex. 46. On August 18,

2005, Alcatraz charged $9.95 per adult voucher. Prelim. Inj. Hr'g, Ex. 23. On August 19, 2005, Alcatraz charged $21.50 per adult voucher. Alcatraz Dep., Ex. 47.

On August 12, 2005, Windsor wrote another e-mail to Maid's counsel stating:

> We have a contract. I have previously faxed a copy to you. I will send another copy to you. You should ask for copies of all the emails from Maid of the Mist to us. Makes for interesting reading.
> The Maid of the Mist staff is slandering Alcatraz Media, as you well know from one where I provided the details to you, and turning away people who bought tickets MONTHS ago. You should consider the consequences of Maid of the Mist's activity of stealing money from people who have already paid and of denying [vouchers] from customers who paid Alcatraz Media.
> Alcatraz Media has complied and continue [sic] to comply with all terms of the contract with Maid of the Mist. Therefore, Alcatraz Media will continue to sell. Alcatraz Media has no intention of EVER stopping to sell Maid of the Mist tickets. I myself, personally, am busily preparing a new web site that will solely sell Maid of the Mist tickets. In addition, I, personally, am applying to Niagara Parks Commission for a contract to operate a boat ride at Niagara Falls, and I will do everything in my power personally to see that Maid of the Mist loses the ability to

> operate at Niagara Falls or gets the competitor they so richly deserve. Alcatraz Media is now providing form letters to all of our customers to enable them to quickly and easily file complaints with the Attorneys General and the Better Business Bureaus. You have never responded to any of my many previous emails and faxes. Have you taken Alcatraz Media' settlement offer to your client? Alcatraz Media will settle for $4 million and a long-term contract to sell for Maid of the Mist. Please extend that offer to your clients.

Windsor Dep., Ex. 15.

Maid persisted in its refusal to honor Alcatraz vouchers at its ticket booths. Several customers requested refunds from Alcatraz and/or disputed Alcatraz's charges with their credit card companies after Maid refused to honor individual vouchers they had purchased from Alcatraz. When requesting a refund from Alcatraz via email, at least one customer indicated that it was her understanding that Alcatraz's actions constituted fraud. Alcatraz believes it was Maid's employees who led this customer to believe that Alcatraz had committed fraud.

Maid filed a complaint requesting a temporary restraining order and injunctive relief in the Superior Court of Gwinnett County, Georgia on August 29, 2005. This complaint did not state a statutory basis for Maid's claim against Alcatraz. A hearing on the matter was set for October 28, 2005.

Maid subsequently withdrew its motion because the 2005 season had ended, and it believed that Alcatraz had agreed not to sell vouchers for the 2006 season.

Between the 2005 and 2006 seasons, as a result of its poor experience with Alcatraz, Maid terminated its relationship with the two other ticket brokerages that sold individual vouchers (www.vacationsmadeeasy.com and www.looktours.com). Maid had not received any customer complaints regarding either of the other ticket brokerages. Maid asserts that both of the other ticket brokerages charged the face value of the ticket (the price Maid charges), such that their booking fee was only the difference between the ticket price and the net adult rate for which the brokerage purchased it.

Some time on or before February 6, 2006, Alcatraz began selling e-tickets for Maid's boat tours for the 2006 season. As used in this Order, an e-ticket is different from a voucher in that a voucher is redeemed for a ticket by Maid at its box offices, whereas an e-ticket is redeemed for a ticket by Alcatraz itself.[16] According to Windsor, Alcatraz

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[16] "E-ticket" has been used interchangeably with "voucher" in some of the parties' communications. However, the Court uses "e- ticket" to refer only to a print-out that Alcatraz would redeem for a ticket. Everything sold by Alcatraz during the 2005 season was a voucher, whereas everything sold by Alcatraz during the 2006 season was an e-ticket.

planned to obtain tickets for which to redeem the e-tickets it issued either by buying them at Maid's box offices, buying them from another website, or buying gift certificates through Maid's corporate office. No evidence has been presented showing that Alcatraz ever did acquire any Maid tickets by any of these means, however.

In February 2006 and March 2006, Alcatraz still did not state Maid's ticket price or Alcatraz's booking few on its website or on the printed e-tickets. On March 9 and 24, 2006, Alcatraz was charging $21.50 per adult e-ticket. Prelim. Ind. Hr'g, Exs. 17, 18;.

Maid filed an updated brief in support of its request for temporary restraining order in the Superior Court of Gwinnett County, Georgia on March 20, 2006. Based on a statement in Maid's updated brief that "Defendants have violated the Lanham Act and state unfair competition laws," Alcatraz removed the action to this Court on March 28, 2006. Alcatraz also answered the complaint on March 28, 2006, and asserted counterclaims alleging promissory estoppel, breach of contract, slander, and violations of the Georgia Fair Business Practices Act, O.C.G.A. § 10-1-391 et seq.

After reviewing documents originally filed in the Superior Court of Gwinnett County, this Court issued a temporary restraining order on March 30, 2006, prohibiting Alcatraz from selling Maid vouchers or using Maid's name or image on its website. The Court modified the temporary restraining order on April 3, 2006 to allow Alcatraz

to sell tour packages that include Maid vouchers through Gray Line Tours because it was clear that Maid was not opposed to such sales. The Court held an evidentiary hearing on Maid's request for preliminary injunction on April 11 and 12, 2006. At the conclusion of the hearing, the Court directed Maid to file proposed findings of fact and conclusions of law ("PFFCL") by April 19, 2006 and for Alcatraz to file a response by April 26, 2006. For the first time in its PFFCL Maid identified the specific statutory basis of its claim against Alcatraz. Maid alleged two state law causes of action – tortious or intentional interference with business relations under Georgia common law, and false or fraudulent advertising under O.C.G.A.5 10-1-421.[17]

Although this case was originally removed to this Court based on federal question jurisdiction under the Lanham Act, Maid did not assert any claims based on federal law. This Court retained subject matter jurisdiction over this action in diversity pursuant to 28 U.S.C. § 1332. All plaintiffs are diverse from all defendants.[18] The amount in

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[17] Maid later withdrew its false advertising claim.

[18] 'Plaintiff Maid of the Mist Corporation is a New York corporation. Plaintiff Maid of the Mist Steamboat Company is an Ontario, Canada corporation. Defendant Alcatraz Media, LLC, is a California limited liability company that has a registered agent in Gwinnett County, Georgia and is authorized to transact business in Georgia. Defendant Alcatraz Media, Inc., is a Delaware corporation that has a registered agent in Gwinnett

controversy in this action is derived from the monetary value to Maid of a permanent injunction against Alcatraz' s future sale of individual Maid vouchers. See Federated Mut. Ins. Co. v. McKinnon Motors, LLC, 329 F.3d 805, 807 (11th Cir. 2003) ("When a plaintiff seeks injunctive or declaratory relief, the amount in controversy is the monetary value of the object of the litigation from the plaintiff perspective." (internal citation omitted)). Because Alcatraz's future sale of Maid vouchers threatens Ma id's good will, the Court concludes that the value of the injunction to Maid derives from the value of Maid's goodwill. Maid has been operating tours at Niagara Falls for 161 years. Maid sold 2.5 million tickets for the 2005 season at $11.50 per ticket, generating nearly $29 million in revenue. The Court finds that the value of the good will of Maid as the exclusive operator of Niagara Falls tour boats serving millions of visitors per year is greater than $75,000.00.

The Court granted maid's motion for preliminary injunction on May 12, 2006, and enjoined Alcatraz from selling individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from using Maid of the Mist's name or images to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from participating in schemes to attempt to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; and from filing false reports with the Better

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County, Georgia and is authorized to transact business in Georgia. Defendant William Windsor is a resident of Georgia.

Business Bureaus of New York and Ontario. The Court did not enjoin Alcatraz from selling tour packages through Gray Line Tours of Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours which include Maid of the Mist tickets or vouchers because Maid was not opposed to such sales.

II. Standard of Review

Summary judgment is appropriate only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" Fed. R. Civ. P. 56(c). In ruling on a summary judgment motion, the Court must view the evidence in a light most favorable to the non-moving party. Adickes v. S.H. Kress & Co. 398 U.S. 144, 157 (1970). Further, the Court may not make credibility determinations, weigh the evidence, or draw inferences from the facts. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986),

To prevail in its motion for summary judgment, the moving party must show that the evidence is insufficient to establish an essential element of the non-moving party's case. Celotex Carp v. Catrett, 477 U.S. 317, 325 (1986). If the moving party makes a sufficient showing, then the non-moving party "must come forward with 'specific facts showing that there is a genuine issue for trial. '" Matsushita Electric Industrial Co. v. Zenith Radio Corp.,

475 U.S. 574, 587 (1986). ' If the evidence supporting the non· moving party's claims is insufficient for a jury to return a verdict for the non-moving party, or is "merely colorable" or "not significantly probative, "then the moving party is entitled to summary judgment. Anderson, 477 at 249. If, however, reasonable minds could differ asto the import of the evidence, and a reasonable interpretation of the evidence could lead t o a verdict for the non-moving party, then summary judgment is inappropriate. Id. at 251-52.

III. Motions for Summary Judgment

Alcatraz argues in its Motion for Summary Judgment [#146] that it is entitled to summary judgment on maid's sole remaining claim for tortious interference with business relations. Alcatraz contends that Maid has not submitted evidence sufficient to meet two of the four required elements of tortious interference with business relations. Specifically, Alcatraz contends that Maid cannot show that Alcatraz induced a third party to discontinue or fail to enter into an anticipated relationship with Maid and that Maid cannot show that Alcatraz caused it financial injury.

Maid asserts in its Motion for Summary Judgment [#148] that it and not Alcatraz is entitled to summary judgment on its claim for tortious interference with business relations. Maid argues that it has submitted sufficient evidence to meet all four elements of the tort under Georgia law. Maid contends that it is entitled to permanent injunctive relief against Alcatraz on the basis of its tortious

interference with Maid's business relations. Additionally, Maid asserts that it is entitled to summary judgment on Alcatraz's four counterclaims for breach of contract, promissory estoppel, slander, and violations of the Georgia Fair Business Practices Act.

A. Tortious Interference With Business Relations

Maid claims that Alcatraz intentionally interfered with Maid's business relations with its customers by continuing to sell vouchers for Maid tickets after July 29, 2005, the date on which Maid terminated its credit arrangement with Alcatraz.

To establish a claim of intentional interference with business relations, a plaintiff must prove that the defendant: "(1) acted improperly and without privilege, (2) purposely and with malice with the intent to injure, (3) induced a third party or parties not to enter into or continue a business relationship with the plaintiff, and (4) for which the plaintiff suffered some financial injury." Hayes v. Irwin, 541 F. Supp. 397, 429 (N.D. Ga. 1982). A claim of intentional interference with business relations exists for interference with prospective business relations, in addition to existing ones. Id. However, "to establish a cause of action for interference with prospective business relations, the plaintiff must demonstrate that absent the interference, those relations were reasonably likely to develop in fact." Id. The Court will address the parties' arguments with respect to each of these elements below.

1. Acted Improperly and Without Privilege

Alcatraz contends that it had a contract with Maid to sell Maid vouchers for the 2005 season. Alcatraz asserts that Maid wrongfully ceased honoring Alcatraz's validly-issued vouchers after July 29, 2005.

Maid asserts that it was entitled to revoke Alcatraz's authorization to sell Maid vouchers via direct billing at any time. Maid submits that it did revoke Alcatraz's authorization to sell Maid vouchers via direct billing as of July 29, 2005. It is Maid's position that, because Alcatraz no longer had authorization to sell Maid tickets as of July 29, 2005, Alcatraz acted improperly and without privilege by continuing to sell tickets after that date.

In the context of a wrongful interference with business relations claim, "acting improperly" means utilization of "predatory tactics such as physical violence, fraud or misrepresentation, defamation, use of confidential information, abusive civil suits, and unwarranted criminal prosecutions." Chong v. Reebaa Constr., Inc. 284 Ga. App. 830, 836(2007). A defendant who acts "without privilege" is one who acts without "a legitimate or bona fide economic interest...or a legitimate relationship...with the [plaintiff business]." Cuteer v. Thompson, 254 Ga. App. 569, X71-72 (2002). The defendant is "a stranger, interloper, or meddler" in the contract or business relationship. Id.

The parties, legal relationship prior to July 29, 2005 is the critical determining factor with respect to

the question of whether Alcatraz was a "stranger, interloper, or meddler" after July 29, 2005. The Court finds nothing in the record to evidence a binding contract between the two parties for the 2005 season or thereafter. Instead, the evidence in the record shows that Maid authorized Alcatraz to sell individual vouchers via direct billing, and that Maid had the right to revoke that authorization at any time.

The entire exchange between the parties to establish a relationship was as follows. In July 2004, Alcatraz submitted a completed credit application to Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. See Windsor Dep., Ex. 2. In the application, Alcatraz requested a credit line of $10,000.00 per month from Maid and Alcatraz agreed to pay all amounts owed to Maid when due. See id. Alcatraz provided Maid with credit references and a sample voucher form. See id. On July 27, 2004, Midge Serrianne, Bookkeeper for Maid, wrote to Alcatraz to let it know the credit application had been approved. Windsor Dep., Ex. 3. The letter stated that Maid was "pleased to offer your company credit with the Maid of the Mist" and informed Alcatraz that Maid would bill Alcatraz every fifteen days for vouchers redeemed at the Maid box office. Id. The letter closed with the statement, "'We look forward to serving you and your clients this coming season." Id.

The next contact between Maid and Alcatraz was at the beginning of the 2005 season. On March 9, 2005, Maid emailed Mr. Windsor a copy of its Group Policy, its 2005 rates, and its 2005 schedule.

Windsor Dep., Ex. 4. Maid of the Mist's Group Policy explicitly stated Maid's rules for vendors of vouchers for Maid tours. Item 3 on the Group Policy described the ways in which a vendor may pay Maid for tickets, including direct billing upon prior authorization. Id. Item 5 on the Group Policy clearly stated: "The Maid of the mist reserves the right to withdraw billing and/or cheque privileges at any time." Id.

It is clear from the record that the relationship between Maid and Alcatraz was a credit relationship only. Maid pre- approved Alcatraz for direct billing and extended $10,000.00 of credit per month to Alcatraz. This meant that Alcatraz was authorized to sell $10,000.00 worth of Maid vouchers per month on credit, and Maid would send Alcatraz an invoice every fifteen days for the Alcatraz vouchers redeemed at its ticket booth. Maid's Group Policy explicitly informed Alcatraz that Maid had the right to revoke this credit authorization at any time. Revocation of the credit authorization meant nothing more than that Maid would no longer accept Alcatraz vouchers for which it had not been prepaid. There is no evidence in the record showing that Maid granted Alcatraz any kind of enduring or binding right to sell Maid tickets.

The evidence shows that Maid revoked Alcatraz's authorization to sell vouchers for Maid via direct billing on July 29, 2005. After July 29, 2005, Alcatraz no longer had a relationship with Maid. When Alcatraz continued to sell individual vouchers for Maid tickets after July 29, 2005, Alcatraz acted

without privilege, as a stranger or meddler in Maid's relationships with customers for its tour boat rides.

Despite notice from Maid that it was no longer authorized to sell vouchers for Maid tickets via direct billing as of July 29, 2005, Alcatraz continued to sell Maid vouchers after that date. In doing so, Alcatraz acted improperly by misrepresenting its status as an authorized dealer of Maid of the Mist tour tickets to online customers. Customers who purchased Alcatraz vouchers were understandably confused and upset when they arrived at the Maid box office and discovered they had purchased vouchers that were worthless.

The Court finds that Alcatraz acted improperly and without privilege in its practice of selling Maid tickets after July 29, 2005. As of that date, Alcatraz became a "stranger, interloper, or meddler" in the relationship between Maid and its customers and wrongfully interfered in that relationship by misrepresenting to Maid customers numerous times that it was authorized to sell vouchers for Maid tickets.

2. Purposely and With Malice With the Intent to Injure

Alcatraz argues that it had a contractual right to sell Maid vouchers and therefore did not act with malice or intent to injure by continuing to sell vouchers in accordance with that contract.

Maid contends that Alcatraz acted maliciously when it continued selling Maid tickets after July 29, 2005. Maid submits Windsor's emails as evidence

that Alcatraz had no intention of ever terminating its sale of Maid tickets and that Alcatraz hoped to interfere in and injure Maid's relationship with its customers. Maid also submits that Alcatraz's repeated alteration of the price of Maid vouchers on its website is evidence of Alcatraz's intent to injure Maid.

The term "with malice" is construed liberally for the purpose of a claim of tortious interference with business relations. The Georgia Supreme Court has held that "malicious" or "maliciously" generally means any unauthorized interference or any interference without justification or excuse. Luke V. DuPree, 158 Ga. 590, 596 (1924). In the specific context of tortious interference with business relations, "[t]he act is malicious when it is done with knowledge of the plaintiff's rights and with the intent to interfere with them. Personal ill will or animosity is not essential to a finding of malice.° Hares. 541 F. Supp. at 429 (internal citations omitted).

The Court finds that Alcatraz acted purposely and with malice with the intent to injure after July 29, 2005. Alcatraz had knowledge of Maid's rights respecting its customers and intentionally interfered with them. Prior to July 29, 2005, Maid informed Alcatraz that Alcatraz customers were surprised and unhappy when they arrived at Maid's box office and learned they had paid several dollars more per voucher than they would have had to pay at Maid's box office for a retail priced ticket. Alcatraz knew that this was causing problems for Maid and was negatively impacting its relationship with its

customers. Maid asked Alcatraz to make both the Maid ticket prices and the Alcatraz service charges clear to its customers. Alcatraz chose not to do so.

Prior to July 29, 2005, Alcatraz had a relationship with Maid and was authorized by Maid to serve as an intermediary between Maid and its customers by selling vouchers for Maid tickets. However, after July 29, 2005, Alcatraz was no longer an intermediary between Maid and its customers. Alcatraz had no privilege to interfere in Maid's relationship with its customers. Despite this, Alcatraz continued to sell Maid tickets it had been informed Maid would no longer honor. Alcatraz knew this would impact Maid's relationship with those customers in a negative way.

After July 29, 2005, Alcatraz also engaged in a practice of over- and under-pricing its vouchers for Maid tickets. In the three weeks following July 29, 2005, Alcatraz changed the price it charged for adult Maid vouchers from $13.95 per voucher ($2.45 higher than the Maid price of $11.50) to $15.9 per voucher, $21.50 per voucher, $9.95 per voucher, and back to $21.50 per voucher. Alcatraz knew that this would create problems for Maid at its box office, just as it had created problems for Maid prior to July 29, 2005.

Finally, after Maid revoked Alcatraz's authorization to sell Maid vouchers via direct billing, Alcatraz informed Maid of its intent to "provid[e] form letters to all of our customers to enable them to quickly and easily file complaints with the Attorneys General and the Better Business Bureaus." Windsor

Dep., Ex. 15. Windsor then filed complaints with the Attorneys General of New York state and Ontario and with the Better Business Bureau of South Central Ontario. The anticipated, intentional effect of filing these complaints was a detrimental one on Maid's relationship with its current and future customers.

3. Induced a Third Party Not to Enter Into or Continue a Business Relationship with Plaintiff

Alcatraz argues that Maid has submitted no evidence to support its allegations that third parties discontinued or failed to enter into a relationship with Maid as a result of Alcatraz's actions. Alcatraz contends that Maid's only evidence of inducement relates to nine customers Maid alleges refused to buy tickets once they learned Maid would not honor their Alcatraz vouchers. Alcatraz contends that those nine customers were really four customers, and that the four customers in fact purchased Maid tickets and did not walk away from the Maid box office as Maid alleges.

Maid asserts that Alcatraz's sale of vouchers it knew would not be honored constitutes inducement of a third party not to enter into or continue a business relationship with Maid. Maid also points to Windsor's writing of a form letter for one customer which was filed with the Better Business Bureau and contends that this act likely turned that customer against Maid and induced him not to do business with Maid in the future.

The record clearly shows that this is exactly what transpired. Many Alcatraz customers expressed their anger to Maid when Maid declined to accept their Alcatraz vouchers at the Maid box office. Some customers were so angry that they chose not to enter into a business relationship with Maid and refused to buy tickets from Maid after learning that their Alcatraz vouchers were worthless. For example, customer Jeff Crist testified that he and his wife chose not to buy tickets from Maid after learning that their Alcatraz vouchers were worthless. Crist Aff. [#147-24] at ¶¶ 10-13. Customer Greg Havens also testified that he and his wife chose not to buy tickets from Maid after learning that their Alcatraz vouchers were worthless. Havens Aff. [#147-25] at ¶¶ 10-13.

Alcatraz argues that it did not induce Crist and Havens to discontinue their business relations with Maid. Instead, Alcatraz asserts that Grist and Havens decided not to buy Maid tickets because of the way Maid treated them at the box office. The Court does not find this argument persuasive. Although both Grist and Havens testified that they did not like the way Maid's staff treated them when they presented their Alcatraz vouchers, it is them that it was authorized to sell Maid vouchers and had Crist and Havens not purchased those vouchers as a result.

The record also supports an inference that more customers with Alcatraz vouchers would have walked away without buying tickets from Maid but for the unique nature of the service Maid provides. For example, one customer, Sharon Oestereich,

submitted an affidavit that she decided not to buy Maid tickets after arriving at the Maid ticket booth and discovering that her pre- purchased Alcatraz vouchers were worthless. Oestereich Aff. [# 171-2] at ¶¶ 8-10. However, later in the day Oestereich decided that her desire to ride the Maid boat was such that she was willing to return to the Maid box office and purchase new tickets to ride the boat. Id. at ¶¶ 11-12.

Additionally, the record shows that Windsor filed a complaint with the Better Business Bureau of South Central Ontario that contained disparaging statements about Maid. Furthermore, Windsor wrote another letter to the Better Business Bureau for a customer, Bruce Lester. Windsor's complaints, which contained inaccurate and disparaging information as to the relationship between Maid and Alcatraz, may have induced customers who reviewed this complaint not to take a trip to Niagara Falls and not to ride Maid's boats.

Based on the foregoing evidence, the Court finds that Alcatraz induced third parties not to enter into or continue a business relationship with Maid.

4. The Plaintiff Suffered Some Financial Injury

Maid alleges that it suffered financial injury as a result of Alcatraz's actions. First, Maid contends that there were at least nine adult customers who purchased vouchers from Alcatraz and refused to buy Maid tickets at the box office when they learned that Maid would not honor the Alcatraz vouchers. Second, Maid submits that it had to sell tickets at

less than face value to Alcatraz customers who had purchased vouchers from Alcatraz at a price lower than Maid's retail rate. Finally, Maid asserts that it was compelled to give customers complimentary tickets and souvenirs to assuage their anger, which was caused by Alcatraz's sale of worthless, overpriced vouchers.

Alcatraz contends that Maid suffered no financial injury as a result of Alcatraz's actions. Alcatraz submits that Maid's only evidence of financial injury is that "nine" customers refused to buy Maid tickets after Maid informed them it would not honor their pre-purchased Alcatraz vouchers. Alcatraz contends that these nine customers were really only four customers, named Ms. Oestereich, Mr. Corson, Mr. Zastrow, and Ms. Burgio. Alcatraz alleges that these four individuals in fact did buy tickets from Maid after their Alcatraz vouchers were not honored. In Addition, Alcatraz contends that any other Alcatraz voucher customers who refused to buy tickets upon arrival at Maid's box office did so as a result of Maid's treatment of them and not as a result of Alcatraz's conduct. Finally, Alcatraz maintains that Maid cannot identify specific instances where it issued complimentary tickets or souvenirs to appease Alcatraz customers.

The parties disagree as to almost every fact in this case. The parties disagree with especial vehemence regarding Maid's alleged financial injury as a result of Alcatraz's intervention in the relationship between Maid and its customers. As a result, the Court has reviewed the record

independently and finds that Maid suffered financial injury as a result of Alcatraz's actions.

The record shows that at least two customers, Mr. Crist and Mr. Havens, decided not to buy four Maid tickets after learning that their pre-purchased Alcatraz vouchers would not be honored by Maid. See Crist Aff. at IT 10-13; Havens Aff. at I¶ 10-13.

The record also shows that Maid issued complimentary tickets to at least one customer, Richard Puglisi, in response to his anger over Maid's refusal to honor his Alcatraz voucher. Puglisi Aff. [#171--5] at ¶¶ 4-5. Finally, the record shows that Alcatraz gave at least two angry customers complimentary souvenirs to appease them after Maid refused to honor their Alcatraz vouchers. See Nugent Aff. [#147-16] at 111; Madden Aff. [#147-211 at 115. Alcatraz submits that it was Maid's choice to give away free tickets and souvenirs and that Alcatraz did not cause Maid this form of financial injury. However, the Court finds that Maid would not have been faced with these angry customers and would not have been in a position where it had to mitigate damage to its reputation and good will in this way had Alcatraz not first misrepresented itself to be an authorized seller of Maid vouchers after July 29, 2005. Although these financial injuries to Maid are minimal, they are sufficient for the purpose of Maid's claim of tortious interference with business relations.

5. Conclusion

The Court finds that there is no question of material fact with respect to Maid's claim that Alcatraz tortiously interfered with Maid's business relations. Maid has proven each of the four elements of tortious interference as a matter of law. Consequently, the Court hereby GRANTS Maid's Motion for Summary Judgment with respect to its tortious interference claim. The Court DENIES Alcatraz's Motion for Summary Judgment.

6. Relief

Maid does not seek money damages as a result of Alcatraz's tortious interference and instead seeks only a permanent injunction against future sale of individual vouchers and e- tickets for Maid tours by Alcatraz, as well as an award of attorney's fees and expenses.

Alcatraz argues that Maid has not shown tortious interference with business relations; therefore, Maid is not entitled to injunctive relief.

"The standard for a permanent injunction is essentially the same as for a preliminary injunction except that the plaintiff must show actual success on the merits instead of a likelihood of success." Amoco Prod. Co. v. Village of Gambell, 480 U.S. 531, 546 n. 12 (1987). However, "[i]n addition to succeeding on the merits, a plaintiff must demonstrate the presence of two elements continuing irreparable injury if the injunction does not issue, and the lack of an adequate remedy at law." Siegel v. LePore, 234 F.3d 1163, 1213 (11th Cir. 2000) (internal quotation and citation omitted).

As discussed above, this Court finds that Maid has succeeded on the merits of its tortuous interference claim. With respect to the two remaining elements required for a permanent injunction to issue, Maid argues that it will suffer irreparable damage to its reputation and goodwill if Alcatraz continues to sell vouchers for Maid rides in the future. Maid also submits that Alcatraz has expressed its intention to continue selling Maid vouchers. Maid argues that there is no adequate remedy at law here because the damage caused by Alcatraz to Maid's reputation and good will would be difficult, if not impossible, to calculate. The Court finds that a permanent injunction is clearly appropriate in this case. Windsor's overtly hostile emails and Alcatraz's persistence in selling vouchers for Maid rides even after Maid informed Alcatraz it did not have authorization to do so indicate that Alcatraz would resume sale of Maid vouchers or e-tickets should the Court lift its preliminary injunction on such sales. The Court has no doubt as to Windsor's desire to inflict harm on Maid. Alcatraz's sale of Maid vouchers and e-tickets would have the same result now as it did before: angry customers at Maid's box office and irreparable injury to Maid's reputation and goodwill. Furthermore, the Court finds that legal damages would be inadequate here. The real injury caused by Alcatraz has not been to Maid's bottom line, but instead has been to Maid's reputation with its customers and with the other parties (such as the Better Business Bureaus and the Attorneys General of New York and Ontario) with whom Alcatraz has spoken about Maid. Consequently, Maid is entitled

to a permanent injunction against Alcatraz's sale of vouchers or e-tickets for rides on Maid's boats at Niagara Falls.

The Court hereby PERMANENTLY ENJOINS Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor, and their affiliates[19] from: selling individual"' vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from using Maid of the Mist's name or images to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from participating in schemes to attempt to sell individual[20] vouchers, tickets, and/or e- tickets for Maid of the Mist boat rides; and from filing false reports with the Better Business Bureaus of New York and Ontario. Defendants Alcatraz Media, LLC, Alcatraz Media, Inc, and William Windsor and their affiliates are not enjoined from selling tour packages through Gray Line Tours of

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[19] 'This applies to all those acting in concert with Defendants or any of Defendants. This includes, but is not limited to: Reserve XL; Round America, LLC; Everybody Loves Travel, LLC; Reserve 123; Take 5 Tours; ZZ Tours; and those entities using Reserve XL software to sell tours as agents of Alcatraz.

[20] '01, Individual "refers to the fact that the voucher/e-ticket is sold by itself, as opposed to being a part of a tour package. This Order does not permit the enjoined parties to sell multiple "individual" vouchers or e-tickets together.

Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours which include Maid of the Mist tickets or vouchers.

B. Alcatraz's Counterclaims

Maid contends that it is entitled to summary judgment with respect to each of Alcatraz's four counterclaims: promissory estoppel, breach of contract, slander, and violation of the Georgia Fair Business Practices Act. Alcatraz responds by arguing that genuine issues of material fact remain with respect to each of its counterclaims.

1. Promissory Estoppel

Alcatraz argues that in March 2005, Sandra Carlson of Maid orally promised Alcatraz that Maid would honor Alcatraz's vouchers for the 2005 season. Alcatraz contends that this promise was definite and certain, was independent of the credit agreement between the parties and was conditioned upon Alcatraz's sale of vouchers for Maid tickets. Alcatraz claims that Maid should have known that Alcatraz would rely on that promise and that in fact Alcatraz did rely on the promise to its detriment.

Maid asserts that Sandra Carlson made no oral promise to Maid. Maid submits in the alternative that even if Carson did make an oral promise to Alcatraz, that promise is not enforceable as a matter of law because: (1) the agreement between the parties was reduced to writing in the form of the credit agreement; (2) the promise

involved the promise of future performance; and (3) the purported promise is too indefinite and uncertain to be enforced.

Promissory estoppel is codified in Georgia as O.C.G.A. ~13-3-44(a), which states: "[a] promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise." To prevail on a promissory estoppel claim, a plaintiff therefore must show that: (1) defendant made certain promises, (2) defendant should have expected that plaintiff would rely on such promises, (3) plaintiff did in fact rely on such promises to its detriment, and (4) injustice can be avoided only by enforcement of the promise. Canterbury Forest Assn v. Collins, 243 Ga. App. 425, 427 (2000).

The only evidence Alcatraz has submitted to support this counterclaim is the Windsor deposition.[21] The Windsor deposition contains

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[21] 11Alcatraz argues in its response to Maid's motion for summary judgment that the Carolyn Ballad deposition also contains evidence of an oral promise by Sandra Carlson that Alcatraz could sell Maid tickets for the 2005 season. However, Alcatraz never filed the Carolyn Ballard deposition with the Court and has not provided the Court with excerpts or quotations from the deposition. Additionally, Maid requested that Alcatraz file the Caroline Ballard deposition with the Court [#233], but Alcatraz never did so. Consequently, the Court cannot consider the

testimony regarding a conversation between Windsor and Sandra Carlson in March 2005 about the logistics of selling vouchers for Maid tickets. Windsor testified that the following exchange occurred during the course of the conversation:

> I said look, you know, on the basis of us working that way can we set this up for you and sale [sic] for this season and, you know, are we good to go? And she said yeah. I'm sure I did not say good to go but I said do we have your okay to go forward and sell Maid of the Mist for the 2005 season and she said yes but we need to send you the updated rates and the schedule and information and she, you know, said that would be taken care of and that was the conversation.

Windsor Dep. at 8 1:1 1 -19.

Examining the conversation in context, Windsor and Carlson spoke in March 2005, before the 2005 Maid of the Mist season had begun. Windsor and Carlson spoke for the purpose of ensuring that Alcatraz understood the proper paperwork to submit to Maid for billing purposes once the 2005 season began. There is no indication from either the context or the words exchanged that Maid intended to establish any kind of binding relationship with Alcatraz for the 2005 season.

Carolyn Ballard deposition as evidence to support Alcatraz's promissory estoppel counterclaim.

Even if the Court were to construe Carlson's words as a promise by Maid, the promise would be at best a vague, indefinite promise that Alcatraz could sell Maid vouchers in the 2005 season, not for the duration of the 2005 season. The Georgia Court of Appeals has held that "[e]stoppel does not apply... to vague, indefinite promises." Mooney v. Mooney, 245 Ga. App. 780, 783 (2000).

Because the Court finds that Alcatraz has submitted no evidence showing Maid made a promise to Alcatraz, the Court finds that Alcatraz cannot prove the first required element of promissory estoppel under Georgia law. Consequently, the Court GRANTS Maid's Motion for Summary Judgment as to Alcatraz's promissory estoppel counterclaim.

2. Breach of Contract

Alcatraz asserts that there was an oral contract between Maid and Alcatraz, formed when Sandra Carlson of Maid told Alcatraz that Maid would honor Alcatraz vouchers for the 2005 season. Alcatraz contends that Maid breached that contract when it stopped honoring Alcatraz vouchers as of July 29, 2005.

Maid argues that the only agreement between the parties was the written credit agreement. Maid contends that the credit agreement was terminable at the will of either contracting party. Maid submits that it lawfully terminated the credit agreement on July 29, 2005.

As discussed above, Alcatraz has not submitted any evidence to show that Maid made a promise to Alcatraz regarding Alcatraz's right to sell Maid vouchers. Without such a promise, there can be no oral contract between the parties. The Court agrees with Maid that the only agreement between the parties was the written credit agreement, which, as the Court discussed in section III.A.1 of this order, was validly revoked by Maid as of July 29, 2005.

The Court hereby GRANTS Maid's Motion for Summary Judgment with respect to Alcatraz's breach of contract counterclaim.

3. Slander

Alcatraz asserts that Maid's statements to Alcatraz customers who attempted to use Alcatraz vouchers at the Maid box office constitute slander. Specifically, Alcatraz contends that Maid told numerous Alcatraz customers that Alcatraz is a "scam" when Alcatraz is not in fact a scam.

Maid contends that the statements its employees made to Alcatraz customers do not constitute slander because they were true, they were expressions of opinion, they were conditionally privileged, and they were not made with malice.

Georgia Code section 51-5-4 (a) defines the tort of slander to include a statement "imputing to another a crime punishable by law," or, alternatively, a statement "making charges against

another in reference to his trade, office, or profession, calculated to injure him therein." To be actionable, however, the statement must be false; truth is always a defense to slander. O.C.G.A. 9 51-5-6; Williams v. Trust Co., 140 Ga. App. 49, 50 (1976).

Additionally, Georgia law recognizes certain communications as conditionally privileged, including "[s]tatements made with a good faith intent on the part of the speaker to protect his or her interest in a matter in which it is concerned." O.C.G.A. § 51-5-7(3). Conditionally privileged statements cannot constitute slander unless they were uttered with actual malice.

The Merriam-Webster dictionary defines "scam" as "a fraudulent or deceptive act or operation." It is clear from the facts of this case that Alcatraz engaged in deceptive acts by representing to online customers that it was an authorized seller of Maid vouchers after July 29, 2005. Alcatraz also deceived customers by selling vouchers to them that it knew were worthless. Alcatraz's deception of its customers falls within the dictionary definition of the word scam. Maid's employees, statements to Alcatraz customers who had been deceived by Alcatraz and who believed they had purchased valid vouchers were true and do not constitute slander.

Even if the Court were to construe Maid's employees' statements to be false (or only partially true) , the statements were conditionally privileged pursuant to O.C.G.A. § 57.-5-7(3). The elements of the conditional privilege defense are: "good faith, an interest to be upheld, a statement properly limited in

its scope, a proper occasion, and publication to proper persons." Amador v. Thomas, 259 Ga. App. 835, 837 (2003); see also Davis v. Sherwin-Williams Co., 242 Ga. App. 907, 908 (2000).

The Court finds that all elements of the conditional privilege defense are present here. First, Maid's employees in good faith believed Alcatraz to be a scam. Every day in the days and weeks following July 29, · 2005, they were faced with Alcatraz customers who had paid Alcatraz an amount higher than Maid's retail ticket price for individual vouchers that were no longer recognized by Maid. Second, Maid had a business interest to be upheld, as these were Maid's customers who wanted to ride Mai d's boats, and Alcatraz had interfered in Maid's relationship with them. Customers who had purchased worthless Alcatraz vouchers were angry at Maid, even though it was not Maid's fault that they had purchased worthless vouchers. Third, the statements were limited in scope, were made on a proper occasion, and were published to proper person. Mai d's employees only told a few of the 894 Alcatraz customers who attempted to redeem worthless vouchers that Alcatraz was a scam, and the statements were made only to Alcatraz customers who actually had been deceived by Alcatraz regarding its status as an authorized seller of Maid vouchers. Finally, there is no evidence in the record to show that Maid's employees made these statements with actual malice.

For the foregoing reasons, the Court finds that Alcatraz has failed to show there is an question of material fact with respect to whether Maid's

employees slandered Alcatraz by calling it a "scam." The Court hereby GRANTS Maid's Motion for Summary Judgment with respect to Alcatraz's slander counterclaim.

4. Violations of the Georgia Fair Business Practices Act

Alcatraz alleges that Maid violated the Georgia Fair Business Practices Act ("FBPA"), O.C.G.A. § 10-1-391 et segue, by making false representations that Alcatraz was a "scam" to Alcatraz customers and by discriminating against Alcatraz in mandating that Alcatraz raise ticket prices and requiring that Alcatraz make disclosures not required of other sellers of Maid tickets. Maid argues that the FBPA does not apply here, because Alcatraz's relationship with Maid is a wholly private transaction between merchants.

The Georgia FBA prohibits "unfair or deceptive acts or practices in the conduct of consumer transactions." O.C.G.A. § 10-1-393. A suit brought under the FBPA "must serve the public interest and implement the purpose of the FBPA- the end to unfair or deceptive acts or practices in the public consumer marketplace." Zeeman v. Black, 156 Ga. App. 82, 84 (1980).

The Court finds that Alcatraz's FBPA claims do not serve the public interest or implement the purposed of the FBPA. In fact, Alcatraz's FBPA claims directly contravene the FBPA. Alcatraz's FBPA claim against Maid is premised upon the notion that Alcatraz should be able to charge its

customers ten dollars or more above the retail ticket price for vouchers to ride on Maid's tour boats and that Alcatraz should not have to reveal Maid's retail price to its customers. It is also Alcatraz's assertion that Maid should not be allowed to warn consumers that Alcatraz overcharged them or sold them worthless vouchers. This is simply not the situation the Georgia legislature contemplated when it enacted the FBPA. Consumers of Maid tickets are protected from unfair or deceptive acts if Alcatraz's claims are denied, not the other way around.

The Court concludes that Alcatraz cannot state a claim under the Georgia FBAA as a matter of law. Consequently, Maid's Motion for Summary Judgment is GRANTED with respect to Alcatraz's FBPA counterclaim.

C. Attorney's Fees and Expenses

Maid asserts that it is entitled to attorney's fees and expenses pursuant to O.C.G.A. § 13-6-11. Alcatraz responds by arguing that Maid failed to include a request for attorney's fees and expenses as a result of stubborn litigiousness in its complaint. Alcatraz also argues that the question of whether Maid is entitled to attorney's fees and expenses is a question for the trier of fact, which Alcatraz asserts is the jury here.

O.C.G.A. § 13-6-111 permits an award of attorney's fees "where the defendant has acted in bad faith, has been stubbornly litigious, or has caused the plaintiff unnecessary trouble and

expense." "Bad faith warranting an award of attorney fees must have arisen out of the transaction on which the cause of action is predicated, as opposed to the resulting litigation." SCQuARE Int`l Lt d. v. BBDO Atlanta, Inc., 455 F. Supp. 2d 1347, 1369 (N.D.Ga. 2006) (internal quotation and citation omitted).

The Court rejects Alcatraz's argument that Maid failed to properly plead its O.C.G.A. § 13-6-11 claim for attorney's fees and expenses. Count II of Maid's complaint is entitled "Based on Defendants' Bad Faith Actions, Maid Is Entitled to Attorney's Fees and Costs." Compl. [#1-2] at 14. The first full paragraph of Count II states: "Defendants have acted, or failed to act, in bad faith, have been stubbornly litigious and/or have caused Maid unnecessary trouble and expense. Accordingly, Maid is entitled to recover attorney's fees and costs of litigation pursuant to O.C.G.A. § 13-6-11." Id. at T 75. Maid could not have stated its O.C.G.A. 13-6-11 claim any more clearly.

The court also rejects Alcatraz's argument that Maid's request for attorney's fees and expenses must be decided by a jury. There are no issues of fact remaining in this case for determination by a jury. The Court holds that Maid is entitled to judgment as a matter of law on all claims.

Furthermore, the Court finds that Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's credit authorization was clearly stubbornly litigious. From Mr. Windsor's emails threatening to sue Maid and seeking four

million dollars in damages, to the complaints filed with the Attorneys General and Better Business Bureaus, to Alcatraz's treatment of Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005, the Court finds it was Alcatraz's and Windsor's stubbornly litigious actions that gave rise to this litigation. This is a straightforward, simple case that Alcatraz and Windsor have unduly complicated and prolonged as a result of harboring hostile personal feelings against Maid. It is and always has been obvious that Alcatraz has no right to force Maid to accept it as its agent for ticket sales.

Accordingly, the Court GRANTS Maid's Motion for Summary Judgment with respect to Maid's O.C.G.A. 13-6-11 claim for attorney's fees and expenses.

V. Other Motions Pending

Alcatraz requested a hearing on the summary judgment motions [# 223]. Maid opposed Alcatraz's request and argued that all necessary evidence is before the Court. The Court finds that a hearing is not necessary and hereby DENIES Alcatraz's request.

Maid has filed a Motion to Strike or, in the Alternative, Motion to Strike Portions of the Declarations of William Windsor, Heriberto Rios and Susan Molck [#237]. These declarations were filed in support of Alcatraz's response in opposition to Maid's motion for summary judgment. Because the Court finds that these declarations were not necessary for

deciding the parties' motions for summary judgment, the Court DISMISSES AS MOOT Maid's Motion to Strike.

Alcatraz has filed a Motion for Clarification and Motion to Strike the Declarations of Sandra Carlson, Vanik Aloian, James Lampman, Rose Devereaux and Holly Drouin [#243]. Because the Court finds that these declarations were not necessary for deciding the parties' motions for summary judgment, the Court DISMISSES AS MOOT Alcatraz's Motion to Strike.

Maid also recently filed a Notice of Objection and Motion to Strike the Reply Affidavit of Brian Raley [#250]. Maid argues that Brian Raley's affidavit, submitted as an attachment to Alcatraz's reply [#249] to Maid's response to Alcatraz's Motion for Clarification or Motion to Strike C#243], is procedurally barred because it was improperly filed. Just as the Court deems Alcatraz's Motion for Clarification and Motion to Strike to be moot, the Court deems Maid's Motion to Strike to be moot. Raley's affidavit is not necessary for deciding the parties' motions for summary judgment. The Court hereby DISMISSES AS MOOT Maid's Motion to Strike.

VI. Conclusion

For the foregoing reasons, Defendants' Motion for Summary Judgment [#146] is DENIED. Plaintiffs' Motion for Summary Judgment [#148] is GRANTED. The Court hereby PERMANENTLY ENJOINS

Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor, and their affiliates[22] from: selling individual[23] vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from using Maid of the Mist's name or images to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; from participating in schemes to attempt to sell individual vouchers, tickets, and/or e-tickets for Maid of the Mist boat rides; and from filing false reports with the Better Business Bureaus of New York and Ontario. Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William Windsor and their affiliates are not enjoined from selling tour packages through Gray Line Tours of Toronto, Gray Line Tours of Buffalo, Gray Line Tours of Niagara Falls, Gray Line Tours of New York, or Over the Falls Tours which include Maid of the Mist tickets or vouchers.

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[22] This applies to all those acting in concert with Defendants or any of Defendants. This includes, but is not limited to: Reserve XL; Round America, LLC; Everybody Loves Travel, LLC; Reserve 123; Take 5 Tours; ZZ Tours; and those entities using Reserve XL software to sell tours as agents of Alcatraz.

[23] Individual" refers to the fact that the voucher/e-ticket is sold by itself, as opposed to being a part of a tour package. This Order does not permit the enjoined parties to sell multiple "individual" vouchers or e-tickets together.

With respect to Maid's O.C.G.A. § 13-6-11 claim for attorney's fees and expenses, the Court DIRECTS Maid to file an itemization of its claim for attorney's fees and expenses within twenty days of the date of this Order. Alcatraz shall have twenty days thereafter to respond with any objections. Maid shall then have ten days to reply. The Clerk is DIRECTED to resubmit the file immediately thereafter.

Defendants' request for a hearing on the summary judgment motions [#223] is DENIED. Plaintiffs' Motion to Strike [#237] is DISMISSED AS MOOT. Defendants' Motion for Leave to File L#241] and Motion for Clarification and to Strike [#243] are DISMISSED AS MOOT. Plaintiffs' Motion to Strike Affidavit [#250] is DISMISSED AS MOOT.

SO ORDERED, this 8 day of August, 2007.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

CONSENT FINAL ORDER AND JUDGMENT

This action having come before the Court, Honorable Orinda D. vans, United States District ridge, for consideration and it appearing to the Court that Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") and Defendants Alcatraz Media, LLC, Alcatraz Media, Inc. and William M. Windsor (collectively, "Defendants") have agreed to the entry of this Consent Final Order and Judgment,

IT IS ORDERED AND ADJUDGED that the Order of the Court, dated August 9, 2007 (Docket No. 251), and the Judgment of the Court, dated October 16, 2007 (Docket No. 281), shall remain in full force and effect.

IT IS FURTHER ORDERED AND ADJUDGED, that Plaintiff's recover from the Defendants the negotiated sum of $395,000.00 as attorney's fees and expenses from the principal sum of $ $446,671.26[24] that Defendants paid into the Registry of Court as a supersedeas bond for their second appeal to the United States Court of Appeals for the Eleventh Circuit (Docket No. 334 and Receipt No. 572768). The sum of $395,000.00 shall be disbursed to satisfy this judgment in full by the delivery of a check in the amount of $395,000.00, payable to Plaintiff Maid of the Mist Corporation and made available for pickup by Attorney Carl H, Anderson, Jr., or his assistant Therese Tran at the Clerk's Office, United States District Court - Northern District of Georgia, Atlanta Division. The Tax Identification Number for Plaintiff Maid of the Mist Corporation is being supplied separately to the Clerk by counsel in accordance with L.R. 67.1D(2), NDGa,

IT IS FURTHER ORDERED AND ADJUDGED that the balance of money that Defendants paid into the Registry for the supersedeas bond after the disbursement to the Plaintiffs including accrued interest shall be disbursed to the Defendants by check made payable

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[24] This figure consists of an award of attorney's fees and expenses in the amount of $421,773.84 (Docket Nos. 325, 327), and award of costs under a bill of costs in the amount of $14,297.28 (Docket No. 313), and estimated appeal damages in the amount of $10,600.14.

to William M. Windsor, and made available for pickup by Mr. William M. Windsor at the Clerk's office, United States District Court -- Northern District of Georgia, Atlanta Division. The Tax Identification Number for Defendant William M. Windsor is being supplied separately to the Clerk by counsel in accordance with LR 67.1D(2), NDGa.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs' Motion For Disbursement of Funds in the Registry of the Court to Plaintiffs' Attorneys and Indwelling Memorandum of Law (Docket No. 278), which the Court granted (Docket No. 325), but which the Clerk refused to process during the second appeal, is reaffirmed. The Clerk is authorized and directed to draw a check on the funds on deposit in the registry of this Court in the principal amount of $5,000.00 plus all accrued interest, minus any statutory user fees, payable to the Plaintiff Maid of the Mist Corporation and make the check available for pickup by Attorney Carl H. Anderson, Jr., or his assistant Therese Tran at the Clerk's Office, United States District Court - Northern District of Georgia, Atlanta Division, The Tax Identification Number for Plaintiff Maid of the Mist Corporation is being supplied separately to the Clerk by counsel in accordance with LR 67.1D(2), NDGa.

Defendants shall pay any statutory fees on all disbursements.

The Clerk is directed to mark the bill of costs and any judgment entered thereon satisfied.

All pending motions in this case are deemed withdrawn and decided. This is a final order and judgment resolving all claims in the case, including claims for attorney fees, expenses, and costs, and is entered by the consent of all of the parties. The case is hereby closed all issues having been decided.

Notwithstanding anything herein to the contrary, this Court expressly retains jurisdiction over this matter to enforce any violation by either party of the terms of its judgments and orders including the permanent injunction against Defendants and their affiliates. No appeals shall be taken from this Judgment, and the parties waive all rights to appeal.

Dated at Atlanta, Georgia this 9 day of December, 2008.

/s
Hon. Orinda D. Evans, Chief Judge
United States District Court Atlanta Division

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
And MAID OF THE MIST STEAMBOAT
COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR,

Defendants

ORDER

This closed case is before the Court on Defendant William M. Windsor's motion for recusal [Doc. 361], motion to reopen the case [Doc. 362], motion for sanctions under Federal Rule of Civil Procedure 37 and the Court's inherent power [Doc 363], and motion for discovery [Doc. 374]. With the exception of Defendant Windsor's motion for discovery, Plaintiffs have filed responses in opposition to each of these motions. [Docs. 366, 367, 370, and 371]. For the reasons stated below, Defendant's motion for recusal [Doc. 361], motion to reopen the case [Doc. 362], motion for sanctions pursuant to Rule 37 and this Court's inherent power [Doc. 363], and motion for sanctions pursuant to

Rule 11 [Doc. 364] are DENIED. Defendant's motion for discovery [Doc. 374] is DISMISSED AS MOOT.

I. Background

The Court will not recount an entire history of this case here. A complete factual background of the case can be found in this Court's Order dated August 9, 2007. [Doc. 251]. On August 9, 2007, the Court granted Maid of the Mist Corporation's and Maid of the Mist Steamboat Company, Ltd.'s ("Plaintiffs') Motion for Summary Judgment on Plaintiffs' claims for tortious interference with business relations, and granted Plaintiffs a permanent injunction against Alcatraz Media, LLC, Alcatraz Media, Inc., and William M. Windsor, (collectively "Defendants") prohibiting their sale of vouchers or e-tickets for rides on Plaintiffs' boats at Niagara Falls, among other things. The Court denied Defendants' Motion for Summary Judgment, and granted summary judgment for Plaintiffs on Defendants' counterclaims. The Court held that Plaintiffs were entitled to recover attorneys' fees and expenses pursuant to O.C.G.A. § 13-6-11, finding that Defendants had been "stubbornly litigious" as defined under the Act. Plaintiffs filed a motion for entry of a separate judgment on August 20, 2007, and judgment was entered on October 16, 2007. On December 3, 2007, the Court awarded Plaintiffs attorneys' fees and expenses in the amount of $421,773.84. [Doc. 325].

On September 7, 2007, Defendants filed a notice of appeal of this Court's summary judgment

rulings and its injunction order to the United States Court of Appeals for the Eleventh Circuit [Doc. 254], and on December 13, 2007, Defendants filed a notice of appeal as to the award of attorneys' fees and expenses. (Doc. 329].

On September 19, 2008, the Court of Appeals affirmed this Court's grant of summary judgment to Plaintiffs, its denial of summary judgment to Defendants, and its issuance of a permanent injunction. [Doc. 344]. The Court of Appeals also affirmed the Court's decision to grant Plaintiffs attorneys' fees and expenses under Section 13-6-11 of the Georgia Code, although the Court of Appeals vacated the award of attorneys' fees and expenses and remanded to the district court for reconsideration of the award with a full and explicit explanation of the amounts awarded. [Doc. 344]. On October 28, 2008, this Court issued an Order making the Court of Appeals' Mandate the judgment of this Court. [Doc. 346]. The parties later entered into a Consent Final Order and Judgment to resolve all remaining claims in the case, including claims for attorneys' fees, expenses, and costs. [Doc. 354]. The Consent Final Order and Judgment was entered on December 9, 2008. It was signed by counsel for all parties.[25] [Doc. 354].

II. Discussion

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[25] While Windsor did not have counsel of record for most of the proceedings, he did when the Consent Order and Judgment was prepared. Counsel's signature is on the Order. [Doc. 354].

A. Windsor's Motion for Recusal [Doc. 361]

On April 24, 2009, Defendant William M. Windsor ("Windsor") filed a motion for the recusal of Judge Evans pursuant to 28 U.S.C. § 144 and 28 U.S.C. § 455, as well as Canons 1, 2, and 3 of the Code of Judicial Conduct, "all other relevant statutory and state and federal case law, as well as the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and the Constitution of the State of Georgia." [Doc. 361, at 1]. Windsor also requests an evidentiary hearing on the motion to recuse. [Doc. 361, at 1.] His motion cites numerous reasons why he believes that recusal is appropriate, all of which are based on prior rulings in this case in Plaintiffs' favor. Plaintiffs have filed a response in opposition. [Doc. 367]. Windsor has filed a reply. [Doc. 381].

Title 28, Sections 144 and 455 of the United States Code provide the applicable legal standards for recusal in this case and are each discussed separately below.

1. 28 U.S.C. § 455

Section 455 provides that:

> (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
>
> (b) He shall also disqualify himself in the following circumstances:

> (1) where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

28 U.S.C. § 455(a), (b) (1) "Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." **Liteky v. United States**, 510 U.S. 540, 555 (1994). The Eleventh Circuit has also held that "prior adverse rulings do not provide a basis for holding that a court's impartiality is in doubt." **Smith v. Hildebrand**, 244 Fed. Appx. 288, 289 (11th Cir. 2007) (unpublished opinion) (citing **Byrne v. Nezhat**, 261 F.3d 1075, 1102-1103 (11th Cir. 2001)).

Windsor's motion for recusal is based solely on this Court's prior rulings in favor of Plaintiffs on a variety of matters. Windsor fails to enumerate any meritorious reasons for anyone to doubt the impartiality of the undersigned other than a general disagreement with the Court's prior rulings.[26] Contrary to Windsor's contentions, the undersigned harbors no animosity toward Windsor and has no bias or prejudice concerning him. In addition, as

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[26] (The only extra-judicial bias that Windsor cites in his motion is his belief that Judge Evans discriminated against Windsor because he is male and he is pro se. [Doc. 361, at 20]. Windsor's affidavit gives no foundation for this contention other than that he felt that Judge Evans' rulings are unfair. For the reasons cited above, this contention is insufficient to support a motion for recusal.)

explained above, adverse rulings, without more, do not constitute a sufficient basis on which to move for recusal. While the issues of law and fact in this case ultimately were not difficult, the litigation produced a very large volume of filings, such that transferring the case to another judge would place a heavy burden on him or her, and would ultimately make no difference as to the outcome of the pending motion to reopen.

2. 28 U.S.C. § 144

In his motion for recusal, Windsor also cites Title 28, Section 144 of the United States Code, which provides:

> Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.
>
> The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

28 U.S.C. § 144. In addition to the reasons already cited, Windsor's motion to recuse must be denied as untimely under 28 U.S.C. § 144, which requires that an affidavit claiming bias must be filed "not less than ten days before the beginning of the term at which the proceeding is to be heard."[27] Windsor waited until after the final judgment in this case was issued to file a motion to recuse, claiming that the delay was due to the fact that Windsor just received and reviewed Plaintiff's "Canadian lease and New York license." [Doc. 361, at 19-20]. This contention does not relieve Defendant of his failure to file the motion to recuse near the beginning of the case, rather than after judgment.

In addition, Section 144 explicitly requires the movant to file along with an affidavit, a certificate of counsel of record stating that the affidavit is made in good faith. 28 U.S.C. § 144. Windsor has failed to file any certificate of counsel of record. On this basis alone, his motion under Section 144 fails.

For the foregoing reasons, Plaintiff's motion for recusal under both 28 U.S.C. §§ 144 and 455 is DENIED. [Doc. 351].

B. Windsor's Motion to Reopen Case [Doc. 362].

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[27] "Proceeding" does not include a Rule 60 (b) motion for relief from judgment. Such an interpretation would inappropriately undermine the finality of judgments.

Windsor has also filed a motion to reopen the case pursuant to Federal Rule of Procedure 60 (b) (1) - (6). [Doc. 362] Plaintiffs filed a response in opposition. [Doc. 366.] Windsor has filed a reply. [Doc. 385].

Federal Rule of Civil Procedure 60(b) governs relief from a final judgment or order. Rule 60(b) provides:

> On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

F.R.C.P. 60(b). Rule 60 also provides that "A motion under Rule 60(b) must be made within a reasonable time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding." Fed. R. Civ. P. 60(c)(1).

Plaintiffs argue that with respect to Windsor's claims under Rule 60 (b)(1), (b)(2) and (b)(3), his motion is untimely under Rule 60(c), as it was brought over a year after the date of the entry of the judgment from which he seeks relief. While Windsor does not specifically state which order or judgment he seeks relief from, it does appear from his motion that he is seeking relief from the Court's August 7, 2007 order granting Plaintiffs summary judgment and a permanent injunction, and the Clerk's subsequent entry of judgment pursuant to this order on October 16, 2007. [Doc. 281]. [28]

Defendants appealed this order on September 7, 2007. [Doc. 254]. Windsor filed his motion to reopen the case on April 24, 2009, over one and a half years after the entry of the district court's judgment.

There is legal authority that supports Plaintiffs' position that Windsor's motion is untimely as to any claim he has under Rule 60(b) (1)-(3). Rule 60(c) explicitly states that motions under Rule 60(b)(1)-(3) must be brought within one year from the date of entry of the judgment or order or the date of the proceeding. Fed. R. Civ. P. 60(c). The Eleventh Circuit has held that this one-year limitation is not tolled by an appeal. **United States v. One Million Four Hundred Forty-Nine Thousand Four Hundred Seventy-Three Dollars and Thirty-**

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[28] A separate judgment was entered by the Clerk of the Court as to the Court's award to Plaintiffs of reasonable attorney's fees and expenses on December 3, 2007. [Doc. 327].)

Two Cents ($1,449,473.32) In United States Currency, 152 Fed. Appx. 911, 912 (11th Cir. 2005) (unpublished opinion); Gulf Coast Bldg and Supply Co. v. Int'l Bhd of Elec. Workers, Local No. 480, AFL-CIO, 460 F.2d 105, 108 (5th Cir. 1972). [29] The First Circuit has found that this time limitation runs from the date of the entry of judgment in the district court, even where such judgment is appealed, so long as the ruling on appeal does not alter that portion of the judgment that is the subject of the Rule 60(b) motion. See Simon v. Navon, 116 F.3d 1, 3 (1st Cir. 1997). The fact that an attorney representing Windsor signed a jointly submitted Consent Final Order and Judgment, which was signed by the Court on December 9, 2008, also supports Plaintiffs' argument that Windsor's Rule 60(b) motion is untimely. That Order explicitly states that the Order of the Court dated August 9, 2007 [Doc. 251] and the judgment of the Court dated October 16 , 2007 [Doc. 28 1] would remain in full force and effect. [Doc. 353, at 1-2].

It is unnecessary to resolve the question of whether Windsor's Rule 60 (b) motion is timely, however, because his motion has no merit as to any of the claims he has brought under each subsection of Rule 60 (b). In order to obtain relief for excusable neglect under Rule 60(b) (1), Windsor must show that he had a meritorious defense, that Plaintiffs would not be prejudiced if the order was vacated,

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[29] In Bonner v. City of Prichard 661 F.2d 1206, 1207 (11th Cir. 1981), the Eleventh Circuit adopted as binding precedent decisions of the former Fifth Circuit handed down prior to October 1, 1981.

and that he had a "good reason" for the neglect. Sloss Indus. Corp. v. Eurisol, 488 F.3d 922, 934 (11th Cir. 2007).

Windsor claims that the relevant "mistakes" in the case are that the Court withheld relevant documents from Defendants and that counsel for co-defendant Alcatraz failed to file the deposition of Carolyn Ballard Bazzo. [See Doc. 362, at 4]. Windsor's failure to file the Bazzo deposition is not excusable, given that Plaintiffs twice requested that Defendants file this deposition before this Court granted summary judgment. [See Docs. 187, 233]. Windsor's claim that this Court withheld evidence from Defendants during discovery merely seeks to rehash a discovery issue that this Court has previously ruled on when it denied Defendants' motion to compel, a decision with which Windsor disagrees. [Doc. 209]. Therefore, Windsor's arguments under Rule 60(b)(1) have no merit.

In order to obtain relief based on newly discovered evidence under Rule 60(b)(2), Windsor must show the following elements: (1) the evidence is newly discovered since the trial; (2) the movant exercised due diligence in discovering the new evidence; (3) the evidence is not merely cumulative or impeaching; (4) the evidence is material; and (5) the evidence is such that a new trial would probably produce a new result. Toole v. Baxter Healthcare Corp., 235 F.3d 1307, 1316 (11th Cir. 2000). Windsor claims that the "new evidence" he has discovered since the judgment consists of two contracts that this Court allegedly "withheld" from Windsor, a fax Windsor received from Sandra Carlson on March 3,

2005, documents in the record that counsel for Alcatraz failed to point out to the Court, and declarations of Alcatraz employees and customers that counsel for Alcatraz failed to file with the Court. Windsor's claims as to the two contracts against seeks to rehash the merits of this Court's prior discovery orders, which, as discussed above, is an inappropriate basis for a Rule 60(b) motion. The declarations of Alcatraz employees and customers, and the fax that Windsor received on March 3, 2005, do not constitute "new evidence" that could not have been discovered with due diligence, as Windsor admits that this evidence was in Windsor's possession before this Court's ruling on summary judgment and it was simply not filed or emphasized to the Court.

Windsor's arguments under Rule 60(b)(3), (4) and (5) are also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support or contentions that the Court should revisit its prior rulings in this case. [See Doc. 362, at 16-22] Such arguments are not proper grounds for relief under Rule 60.

In addition, Windsor's only argument that the judgment is void under Rule 60(b)(4) is his contention that the undersigned did not act in a manner consistent with due process of law, that documents were "withheld" from him, and that Plaintiffs lied. [Doc. 362, at 18]. His allegations are cursory and, while they evidence Windsor's disagreement with the outcome of the case, they do not provide a basis for finding that the judgment is void.

Finally, Windsor is not entitled to relief under Rule 60(b)(6), as his arguments under Rule 60(b)(6) merely rehash the arguments that he presents under the other five subsections of Rule 60(b). Where a party's claim falls under one of the other enumerated sections listed in 60(b), a party has no recourse to Rule 60(b)(6). See **Hall v. State of Alabama**, 700 F.2d 1333 (11th Cir. 1983) (stating "a court may not consider as reasons justifying relief under clause (6) any of the reasons justifying relief under the other five subsections of the rule") (citing **Klapprott v. United States**, 335 U.S. 601, 614-15 (1949)). As Windsor here has raised his claims under Rule 60 (b) (1) - (5), Windsor has no recourse under Rule 60(b)(6).

For the foregoing reasons, Windsor's motion to reopen this case is DENIED. [Doc. 352].

C. Windsor's Motions for Sanctions Under Rule 37 and the Court's "Inherent Powers" [Doc. 363]

Windsor has also filed a motion for sanctions against Plaintiffs and Plaintiffs' counsel under Federal Rule of Civil Procedure 37 and the Court's "inherent powers," based on Plaintiffs' alleged failure to make disclosures and failure to cooperate in discovery. [Doc. 363]. Plaintiffs filed a response in opposition. [Doc. 370].

1. Rule 37

The Local Rules for the Northern District of Georgia provide that a motion to compel a disclosure or

discovery under Rule 37 "must be filed within the time remaining prior to the close of discovery, or, if longer, within ten (10) days after service of the disclosure or discovery response upon which the objection is based." N.D. Ga. L.R. 37.1.B. Windsor's motion under Rule 37, filed on April 27, 2009, does not comply with this requirement, as it was filed long after this Court's final judgment. Nor does Windsor's motion comply with the formatting requirements of Local Rule 37.1, which require a motion to compel a disclosure or a response to discovery to quote verbatim each discovery request at issue, state the specific objection, the grounds for the objection, and cite authority and a discussion of reasons assigned as supporting the motion. N.D. Ga. L.R. 37.1.A. For the foregoing reasons, Windsor's Motion under Rule 37 is DENIED. [Doc. 363].

2. Inherent Authority

"A court may impose sanctions for litigation misconduct under its inherent power." **Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.**, 56 1 F.3d 1298 (11th Cir. 2009) (citing **Chambers v. Nasco, Inc.**, 501 U.S. 32, 43-44 (1991); **In re Sunshine Jr. Stores**, 456 F.3d 1291, 1304 (11th Cir. 2006)). This power, however, "must be exercised with restraint and discretion." **Roadway Express, Inc. v. Piper**, 447 U.S. 752, 764 (1980). A court's inherent power to sanction for litigation misconduct is dependent upon finding bad faith. **Eagle Hosp. Physicians, LLC**, 561 F.3d at 1306.

Windsor's arguments in support of his motion consist of cursory allegations regarding the discovery

process. Many of these allegations have already been heard and ruled upon by the Court. The Court finds that there is not any evidence that Plaintiffs acted in bad faith in the course of this litigation, and the Court therefore declines to use its inherent powers to sanction Plaintiffs. Further, Windsor's motion is too late. For the foregoing reasons, Windsor's motion to sanction Plaintiffs pursuant to the Court's inherent authority is DENIED.

D. Windsor's Motions for Sanctions Under Rule 11 [Doc. 3641

Windsor has also filed a motion for sanctions and a motion to dismiss under Rule 11 against counsel for Plaintiffs for their allegedly false filings. Windsor filed this motion on April 27, 2009. [Doc. 3&4] Plaintiffs filed a response in opposition. [Doc. 371]. In his motion, Windsor complains about a large number of Plaintiffs' filings, including the Complaint, affidavits, responses to interrogatories, document productions, as well as motions and briefs filed by Plaintiffs during the course of the litigation in this case.

Windsor's motion is entirely lacking in substantive merit.

The Court also must deny Windsor's motion for sanctions because it is untimely and because it fails to comply with Rule 11's safe harbor requirements. "A motion for sanctions under Rule 11... should be denied when the moving party fails to act promptly." Price v. Hawaii, 789 F. Supp. 330,

335-36 (D. Haw. 1992). The Advisory Committee on the Rules commented as follows:

> Ordinarily the motion should be served promptly after the inappropriate paper is filed, and, if delayed too long, may be viewed as untimely... Given the "safe harbor" provisions...a party cannot delay serving its Rule 11 motion until conclusion of the case (or judicial rejection of the offending contention).

Fed. R. Civ. P. 11 (Notes of Advisory Committee on Rules to 1993 Amendment). Rule 11's "safe harbor" provision provides that "A motion for sanctions... must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets." Fed. R. Civ. P. 11(c)(2). This rule requires that the party seeking sanctions "must serve the Rule 11 motion on the opposing party at least twenty-one days before filing the motion with the district court, and sanctions may be sought only if the challenged pleading is not withdrawn or corrected within twenty-one days after service of the motion." ***Brickwood Contractors, Inc. v. Datanet Eng, Inc.***, 369 F. 3d 385, 389 (4th Cir. 2004).

Due to this safe harbor provision, several circuits have held that a court cannot grant a motion for sanctions filed after the conclusion of the proceedings, because the opposing party is thereby deprived of a chance to cure or withdraw the offending filing. "[A] party cannot wait to seek

sanctions until after the contention has been judicially disposed. A party must now serve a Rule 11 motion on the allegedly offending party at least twenty-one days prior to the conclusion of the case or judicial rejection of the offending contention." **Ridder v. Springfield**, 109 F.3d 288, 295 (6th Cir. 1997); see also **Brickwood Contractors, Inc**., 369 F.3d at 389-90 (holding that a district court lacks authority to impose requested sanctions where the movant files a motion for sanctions after the close of proceedings); **In re Pennie & Edmunds LLP**, 323 F.3d 86, 89, nn.1, 2 (2d Cir. 2003); see also **Price**, 789 F. Supp. at 335-36 (denying a motion for sanctions under Rule 11 due to untimeliness where the motion was filed more than two years after the dismissal of the case, and after the dismissal was affirmed on appeal). In both **Brickwood** and **Ridder**, the Courts of Appeal held that a party's motion for Rule 11 sanctions was untimely because it was filed after the entry of summary judgment and therefore deprived the offending party of its chance to withdraw or cure the offense. **Brickwood**, 369 F.3d at 390; **Ridder**, 109 F.3d at 297.

In a case involving a motion for sanctions under Rule 9011 of the Bankruptcy Code,[30] the

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[30] Federal Rule of Bankruptcy Procedure 9011 contains a similar safe harbor provision as Federal Rule of Civil Procedure 11. Rule 9011 (C)(1)(A) provides in part: A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 7004. The motion for sanctions

Eleventh Circuit agreed with the reasoning of these courts and held that "the service and filing of a motion for sanctions `must occur prior to final judgment or judicial rejection of the offending' motion." **In re Walker**, 532 F.3d 1304, 1309 (11th Cir. 2008) (quoting **Ridder**, 109 F.3d at 297). In **Walker**, the Court upheld the district court's denial of a motion for sanctions because the offending motion, on which the motion for sanctions was based, had already been denied by the court when the motion for sanctions was filed. 532 F.3d at 1308-1309.

Given this legal authority, the Court finds that it lacks authority to grant Windsor's motion for sanctions under Rule 11 because it was filed after the Court's entry of summary judgment and after that ruling was affirmed by the Court of Appeals. Considering Windsor's motion on the merits would deprive Plaintiffs of the safe harbor provisions in Rule 11 as they have had no opportunity to cure any of their allegedly sanctionable filings. Windsor states in his motion that "Mr. Anderson was long ago advised of Windsor's intent to file a Motion for Sanctions under Rule 11," but an informal warning does not satisfy the safe harbor provision in Rule 11. See **Barber v. Miller**, 146 F.3d 707, 710 (9th Cir.

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may not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected... Fed. R. Bankr. P. 9011 (c) (1) (A).)

1998) ("It would... wrench both the language and purpose of the amendment to the Rule to permit an informal warning to substitute for service of a motion").

For the foregoing reasons, Windsor's motion for sanctions under Rule 11 is DENIED. [Doc. 364].

E. Windsor's Motion for Discovery [Doc. 374]

Windsor has also filed a Motion for Discovery, whereby Windsor argues that he must be able to depose counsel for Plaintiffs in order to support his various pending motions before the Court. [Doc. 374). Because the Court has denied Windsor's motion to reopen the case, his Motion for Discovery is now DISMISSED AS MOOT. [Doc. 374].

F. Plaintiffs' Requests for Attorneys' Fees and Expenses

1. Section 13-6-11 of the Georgia Code.

In their responses to each of Windsor's motions, Plaintiffs argue that they are entitled to costs and attorneys' fees under Section 13-6-11 of the Georgia Code. Section 13-6-11 provides that expenses of litigation may be allowed as part of the damages "where the defendant has acted in bad faith, has been stubbornly litigious, or has caused the plaintiff unnecessary trouble and expense." Ga. Code Ann. § 13-6-11. While it appears Windsor filed his meritless motions only to cause Plaintiffs unnecessary trouble and expense, Plaintiffs' expenses in defending against his motions were not

incurred in their prosecution of their own claims. Section § 13-6-11 contemplates that fees and expenses will only be recovered as part of the damages in a plaintiff's prosecution of their own claims. Therefore, the Court may not award such expenses for Plaintiffs' defenses of these motions under Section 13-6-11. See Lineberger v. Williams, 393 S.E.2d 23, 26 (Ga. Ct. App. 1990) (holding that O.C.G.A. 13-6-11 does not provide for the recovery of attorneys' fees incurred in defending against a defendant's counterclaim).

Federal Rule of Civil Procedure 37(a)(5)(b)

Plaintiffs have requested that they be awarded attorneys' fees and expenses for defending against Windsor's Rule 37 motion under Federal Rule of Civil Procedure 37(a)(5)(B), which provides that if a motion to compel brought under Rule 37 is denied, the court "must, after giving the opportunity to be heard, require the movant, the attorney filing the motion, or both to pay the party of deponent who opposed the motion its reasonable expenses incurred in opposing the motion, including attorneys' fees. But the court must not order payment if the motion was substantially justified or other circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(a)(5)(B).

While Windsor's motion under Rule 37 clearly lacks merit, Plaintiffs' request for sanctions must be denied. Plaintiffs' request simply is not apt. Rule 37 provides sanctions for abusive discovery, and also for resisting abusive discovery. However, the applicability of Rule 37 assumes that some form of

discovery is otherwise appropriate. Here, the case is over; no discovery is appropriate.

III. Conclusion

The Court has carefully considered the parties' filings. In summary, Windsor's motion for recusal [Doc. 361] and Windsor's motion to reopen the case [Doc. 362] are DENIED. In addition, Windsor's motion for sanctions pursuant to Rule 37 and the Court's inherent power [Doc. 363] and motion for sanctions pursuant to Rule 11 [Doc. 364] are DENIED. Windsor's motion for discovery [Doc. 374] is DISMISSED AS MOOT. Plaintiffs' requests for attorneys' fees and expenses incurred in responding to Windsor's motions are DENIED.

SO ORDERED, this 22 day of May, 2009.

s/
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

FILED IN CHAMBERS
U.S.D.C. – ATLANTA

MAY 22 2009

JAMES N. HATTEN, CLERK
BY: S/ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
and MAID OF THE MIST STEAMBOAT
COMPANY, LTD.

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LLC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR

Defendants

ORDER

This civil suit is before the Court on Defendant William M. Windsor's Motion for Reconsideration of Motion for Discovery filed June 8, 2009.

The record reflects that Judgment was entered in Plaintiffs' favor on October 16, 2007. On December 3, 2007, the Court awarded Plaintiffs attorneys fees and expenses in the amount of $421,773.84. Defendants filed a Notice of Appeal; on September 19, 2008, the Court of Appeals affirmed the grant of summary judgment to Plaintiffs, but vacated the award of attorneys fees and expenses and remanded to this Court for reconsideration of the award of attorneys fees and expenses with a full and explicit explanation of the amounts awarded. On

October 28, 2008, this Court issued an Order making the Court of Appeals' mandate the judgment of this Court. Subsequently, all parties entered into a Consent Final Order and Judgment which resolved claims for attorneys fees, expenses and costs. The Consent Final Order and Judgment was entered on December 9, 2008.

On April 24, 2009, Defendant Windsor filed a Motion to Reopen this case pursuant to Rule 60 (b)(1)-(6) of the Federal Rules of Civil Procedure. He simultaneously filed other motions, including a motion for Discovery.

On May 22, 2009, the undersigned entered an Order denying Defendant Windsor's Motion to Reopen the Case and denying certain other motions as well. Because the motion to reopen judgment was denied, the motion for discovery was dismissed as moot on May 22, 2009.

Defendant Windsor filed the instant Motion for Reconsideration of Motion for Discovery on June 8, 2009. He filed his Notice of Appeal concerning this Court 's Order denying the Motion to Reopen the case, plus other motions, on June 15, 2009. A letter notice to Mr. Windsor of the status of the appeal, a copy of which was sent to the undersigned, contains this notation: "This Court [the Court of Appeals] awaits District Court's ruling on 6/8/2009 Motion for Reconsideration of Motion for Discovery by William M. Windsor."

Because the instant case is a closed case, and the Court has denied Windsor's Motion to Reopen

Case, there is no need for discovery. Accordingly, Defendant Windsor's Motion for Reconsideration of Motion for Discovery [#410] is hereby DISMISSED as moot.

The Clerk is directed to forward a copy of this order to the United States Court of Appeals for the Eleventh Circuit.

SO ORDERED, this 2 day of July, 2009.

/s
ORINDA D. EVANS
United States District Judge

FILED IN CHAMBERS
U.S.D.C Atlanta

JUL 2 2009

James N. Hatten, Clerk
BY: S/ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION
and MAID OF THE MIST STEAMBOAT
COMPANY, LTD.

Plaintiffs

v. CIVIL ACTION NO.
1:06-CV-0714-ODE

ALCATRAZ MEDIA, LLC, ALCATRAZ
MEDIA, INC. And WILLIAM M. WINDSOR

Defendants

ORDER

This closed civil case comes before the Court on sixty-two post-judgment motions filed by Defendant William M. Windsor ("Windsor"), acting pro se, as follows

- May 22, 2009: one motion [Doc. 387];
- June 4, 2009: nine motions [Doc. 393, 395, 396, 398, 400, 402, 404, 406, 408];
- June 10, 2009: two motions [Doc. 412 & 414];
- June 15, 2009: one motion [Doc. 416];
- July 10, 2009: one motion [Doc. 456];
- July 14, 2009: one motion [Doc. 460];
- July 16, 2009: five motions [Doc. 464, 466, 468, 470, 472];
- August 3, 2009: one motion [Doc. 484];

- August 4, 2009: three motions [Doc. 486, 488, 490];
- August 7, 2009: one motion [Doc. 493];
- August 20, 2009: three motions [Doc. 511, 513, 515];
- August 24, 2009: one motion [Doc. 528];
- September 15, 2009: one motion [Doc. 547];
- September 25, 2009: one motion [Doc. 561];
- September 28, 2009: five motions [Doc. 563, 565, 567, 569, 571]
- October 26, 2009: four motions [Doc. 590, 592, 594, 602];
- November 3, 2009: two motions [Doc. 606 & 610};
- November 13, 2009: two motions [Doc. 616 & 618];
- November 25, 2009: three motions [Doc. 631, 633, 635];
- December 8, 2009: eleven motions [Doc. 646, 649, 652, 655, 658, 661, 663, 665, 673, 675, 678];
- December 14, 2009: two motions [Doc. 690 & 692];
- December 21, 2009: two motions [Doc. 702 & 704].

In reaction, Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") have filed the following motions:

- a "Motion for Permanent Injunction Restricting Future Filings by William M. Windsor" [Doc. 458];
- six motions to strike six of Windsor's replies in support of his substantive motions [Doc. 619-624];
- one motion to strike portions of Windsor's ninety-eighth sworn declaration [Doc. 626];
- two motions requesting leave to file motions exceeding the Local Rules' page limit, and two motions to strike two of Windsor's substantive motions [Doc. 681-6841;
- one motion requesting leave to file a motion exceeding the Local Rules' page limit, one motion to strike one of Windsor's substantive motions, and four motions to strike portions of four of Windsor's sworn declarations [Doc. 693-698];
- one motion for joinder in the undersigned's response to Windsor's motion to compel [Doc. 705].

Because Windsor's motions are not cognizable in the face of a previously entered final judgment, and the Court of Appeals has previously upheld this Court's order declining to reopen the judgment, and the motions otherwise lack merit, Windsor's motions will be DISMISSED. Plaintiffs' motions will also be DISMISSED, except for Plaintiffs' motion to enjoin Windsor from filing any future motions, pleadings, or other papers regarding this case [Doc. 458], which will be GRANTED IN PART and DENIED IN PART.

I. Procedural History

A. The Lawsuit

On August 9, 2007, the Court granted summary judgment to Plaintiffs on their claim of tortious interference with business relations against Alcatraz Media, LLC, Alcatraz Media, Inc., and William M. Windsor (collectively, "Defendants") [Doc. 251] The Court granted Plaintiffs a permanent injunction that prohibited Defendants' further sale of vouchers or e-tickets for rides on Plaintiffs' boats at Niagara Falls, among other things. The Court denied Defendants' motion for summary judgment and granted summary judgment to Plaintiffs on Defendants' counterclaims. Finally, the Court held that Plaintiffs were entitled to attorneys' fees and costs under O.C.G.A. § 13-6-11, finding that Defendants had been "stubbornly litigious" as defined by that section of Georgia law.

Plaintiffs filed a motion for the entry of a separate judgment on the Court's summary judgment order [Doc. 252], which the Court granted on October 16, 2007, the date that the clerk of court entered judgment for Plaintiffs [Doc. 280 & 281]. On December 3, in accordance with its summary judgment order, the Court awarded Plaintiffs attorneys' fees and expenses in the amount of $421,773.84 [Doc. 325].

On September 7, 2007, Defendants filed notices of appeal of the Court's summary judgment rulings and its permanent injunction order with the

United States Court of Appeals for the Eleventh Circuit [Doc. 254 & 256]. On December 13, Defendants also filed notices of appeal regarding the Court's award of attorneys' fees and expenses to Plaintiffs [Doc. 328 & 329].

On September 19, 2008, the Court of Appeals affirmed the Court's grant of summary judgment to Plaintiffs, its denial of summary judgment to Defendants, and its issuance of the permanent injunction against Defendants [Doc. 344]. The Eleventh Circuit also affirmed the Court's decision to award Plaintiffs attorneys' fees and expenses under O.C.G.A. § 13-6-11, but vacated the actual award and remanded the case to this Court for reconsideration of the award with a full explanation of the amounts awarded [Doc. 344 at 8-10] On October 28, 2008, the Court entered an order making the Eleventh Circuit's mandate its judgment [Doc. 346].

The parties later entered into a Consent Final Order and Judgment resolving all remaining claims in this case, including outstanding claims for attorneys' fees, expenses, and costs [Doc.354] The Consent Final Order and Judgment, signed by counsel for all parties and by Windsor personally, was entered on December 9, 2008. The parties agreed that, upon entry of the Consent Final Order and Judgment, the case was "closed[,] all issues having been decided" [Doc. 354 at 4] The Court "retain[ed] jurisdiction over [the] matter to enforce any violation by either party of the terms of its judgments and orders[,] including the permanent

injunction against Defendants and their affiliates" [Doc. 354 at 4].

Once the Consent Final Order and Judgment was entered, Windsor began filing pro se motions seeking various forms of relief from this Court.[31]

The Court entered an order on May 22, 2009 [Doc. 390] denying Windsor's pro se motions to recuse the undersigned from the case [Doc. 361], to reopen the case pursuant to Federal Rule of Civil Procedure 60 (b) [Doc. 362], to impose sanctions on Plaintiffs and their attorneys pursuant to Federal Rule of Civil Procedure 37 and the Court's inherent powers [Doc.363], and to impose sanctions on Plaintiffs' attorneys pursuant to Federal Rule of Civil Procedure 11 [Doc. 364]. The Court also dismissed as moot Windsor's pro se motion to engage in discovery in support of these denied motions [Doc. 374].[32]

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[31] 1 Windsor also attempted to serve a pro se deposition subpoena on the undersigned. Judge William S. Duffey, Jr. initially stayed, and ultimately quashed, that subpoena by order dated June 30, 2009 [1:09-CV-1543-WSD Doc. 32]. Windsor has since filed a 499-page, 3,043-paragraph pro se complaint against the undersigned, the United States, Plaintiffs, Plaintiffs' attorneys, and other named and unnamed individuals "for relief from all orders, judgments, and the final judgment entered on December 9, 2008 in Civil Action No.1:06-CV-0714-ODE" [1:09-CV-2027-WSD Doc. 1].

[32] On July 2, 2009, the Court issued an order [Doc. 437] dismissing as moot Windsor's pro se

On June 15, Windsor filed a pro se notice of appeal seeking review of the Court's May 22 order [Doc. 418] On September 9, the Court of Appeals dismissed Windsor's appeal sua sponte pursuant to Eleventh Circuit Rule 42-4[33] and denied Windsor's remaining motions as moot [Doc. 5451.

B. The Parties' Pending Motions

After the Court of Appeals dismissed Windsor's appeal, Windsor continued filing pro se motions seeking relief from this Court.[34] Windsor has also filed a pro se "Verified Complaint of Professional Misconduct" under Local Rule 83. 1 (F)(2), requesting, among other things, that Plaintiffs' attorneys and the undersigned be "referred to the State Bar of Georgia" for disciplinary proceedings as well as "to the U.S. Attorney and/or the Grand Jury for further charges" [Doc. 474 at 1-

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motion for reconsideration of the Court's dismissal of his motion for discovery [Doc.410].

[33] That rule provides, "If it shall appear to the court at any time that an appeal is frivolous and entirely without merit, the appeal may be dismissed." 11TH CIR. R. 42-4.

[34] As of this Order, and excluding the Verified Complaint of Professional Misconduct, Windsor has sixty-two motions pending in this case. Consistent with Local Rule 7.1 (B), Plaintiffs have thus far responded to nearly all of Windsor's motions. Windsor has filed replies.

2]. Plaintiffs, through counsel, have filed nineteen motions now pending before the Court. These motions are a reaction to Windsor's motions. On July 15, 2009, Plaintiffs moved for a permanent injunction restricting "Windsor and any persons acting at his behest or in concert with him from filing any other pleadings in Civil Action No. 1:06-CV-0714-ODE" and "from filing in any federal court any pleadings against [Plaintiffs] and any of [their] affiliates unless (1) it involves claims not arising from the same nucleus of operative fact as those alleged in Civil Action No. 1:06-CV-07 4-ODE and Civil Action No. 1:09-CV-1543-WSD and (2) has attached a written order from a judge of this Court confirming that the action is not frivolous" [Doc. 458 at 18-19].

On November 20, Plaintiffs filed six motions to strike reply briefs filed by Windsor in support of six of his motions for substantive relief, arguing in each that Windsor's reply briefs include "affidavits and other supporting materials" prohibited by the Local Rules [Doc. 619-624]. On November 23, Plaintiffs filed a motion to strike Windsor's second motion to modify the permanent injunction in this case, arguing that the supplemental materials attached to that motion "are replete with hearsay, speculation, opinion, innuendo, argument, conclusion, mischaracterization, misstatement, and other infirmities that render them meaningless from an evidentiary standpoint" [Doc. 626 at 2].

On December 14, Plaintiffs filed two motions requesting leave to file motions exceeding the page limit set by the Local Rules [Doc. 681 & 682] and

contemporaneously filed those two motions, which request that the Court strike two of Windsor's substantive motions for relief [Doc. 683 & 684] On December 16, Plaintiffs filed six additional motions: one for leave to file a motion exceeding the page limit set by the Local Rules [Doc. 693], one to strike one of Windsor's substantive motions [Doc. 694], and four to strike four of Windsor's replies in support of various substantive motions [Doc. 695-698]. On December 21, Plaintiffs filed a motion [Doc. 705] to join in a response submitted by the undersigned in opposition to Windsor's prior motion to compel.

II. Discussion

A. Windsor's Pending Motions

Because this case is a closed case, and cannot be reopened, all of Windsor's motions fail for that reason alone. Nonetheless, the Court will state below several additional reasons why the motions lack merit.

1. Motions for Hearings and Conferences

Twenty-five of Windsor's motions[35] solely request that the Court hold a hearing or conference to address contentions raised in his motions for substantive relief. However, Northern District of Georgia Local Rule 7.1(E) provides that "Motions will

[35] Specifically, the motions located at Docket Numbers 395, 398, 402, 408, 414, 464, 466, 488, 490, 513, 563, 565, 590, 592, 602, 610, 616, 618, 631, 633, 663, 665, 690, 692, and 704.

be decided by the court without oral hearing, unless a hearing is ordered by the court." The Court concludes, as it may under Local Rule 7.1(E), that Windsor's motions do not warrant an oral hearing or conference. Therefore, all of Windsor's motions requesting hearings or conferences to address issues raised in his substantive motions are DISMISSED.[36]

2. Motions Rendered Moot

Several of Windsor's motions are either untimely or have been rendered moot by prior orders of this Court or other courts.[37]

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[36] Because the Court has thus denied Windsor's motion for an emergency conference located at Docket Number 633, Plaintiffs' motion to strike that motion (Doc. 683) is DISMISSED AS MOOT. Having dismissed Plaintiffs' motion to strike, Plaintiffs' motion requesting leave for that motion to exceed the page limit set by the Local Rules [Doc. 681] is also DISMISSED AS MOOT.

[37] For example, still pending is a motion by Windsor [Doc.387] for leave to file a reply brief that exceeds the page limit set by the local Rules in support of his motion to reopen the case. As the Court denied Windsor's motion to reopen the case in its May 22 order, Windsor's motion requesting leave for his reply brief to exceed the page limit [Doc. 387] is DISMISSED. In addition, still pending is a motion by Windsor for a one- week extension of time to file replies to twelve of Plaintiffs' responses to Windsor's substantive motions [Doc. 450]. This Order either denies or dismisses as moot those motions, and the time for the one-week extension

In its May 22 order, the Court denied Windsor's motion to recuse the undersigned from this case pursuant to 28 U.S.C. § 144 and 455, among other sources that Windsor invoked [Doc. 390 at 3-6] Undeterred, Windsor has filed multiple motions seeking to recuse the undersigned by invoking those same sources anew [Doc.406, 470, & 673]. As the May 22 order fully considered and denied Windsor's first motion for recusal, however, Windsor's subsequent motions to that same effect are DISMISSED AS MOOT.

Windsor has filed a motion seeking to compel Plaintiffs and the undersigned, pursuant to Federal

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has long since passed. Windsor's motion requesting an extension of time to file his replies to Plaintiffs' responses [Doc. 460] is DISMISSED AS MOOT. Windsor has also filed a motion for an emergency stay of this proceeding until his motion to disqualify the undersigned from this case can be heard and ruled upon by another judge [Doc. 4161. Judge Duffey has since heard Windsor's motion and denied it as moot [1:09-CV-1543-WSD-WEJ Doc. 32] Therefore, Windsor's motion for an emergency stay pending a ruling on his motion to disqualify the undersigned in this case [Doc. 416] is DISMISSED AS MOOT.

Rules 34 and 37 and Local Rule 37.1, to produce documents provided to the undersigned on February 15, 2007 for an in camera inspection [Doc. 404]. The rules cited by Windsor do not apply at this post-judgment stage of the case, in which discovery ended years ago. Windsor thus may not cite those rules as authority to compel the Plaintiffs and the undersigned to disclose any documents. His motion seeking such disclosure is thus DISMISSED AS MOOT.

Several of Windsor's motions again request that the Court reopen this case pursuant to Rule 60(b) or request relief that could only be obtained were the Court to reopen the case pursuant to that Rule. For instance, Windsor twice moves the Court [Doc.547 & 606] to modify the injunction set forth in its order dated August 9, 2007 and deemed "in full force and effect" by the Consent Final Order and Judgment [Doc. 354 at 2] As the Court has previously refused to reopen the case pursuant to Rule 60(b), however, the case remains closed. Windsor's motions requesting modification of the injunction [Doc. 547 & 606] are DISMISSED.

Windsor has also filed a motion to vacate the orders and judgment in this case pursuant to Rule 60(b)(5) [Doc. 567] and a motion to reopen the case and grant relief from alleged violations of his constitutional rights, based on Rule 60(b)(4) [Doc.571]. The Court previously denied Windsor's motion to reopen the case under Rule 60 (b) and will not revisit that ruling. The case remains closed, and Windsor's requested relief is unavailable. Those motions for relief dependent on reopening the case

pursuant to Rule 60(b) [Doc. 567 & 571] are DISMISSED AS MOOT.

3. Remaining Motions

The Court has thus far individually addressed thirty-six of Windsor's sixty-two pending motions. The Court will now individually address each of his remaining motions, all of which stand denied.

Windsor has filed three motions seeking to set aside the judgment and reopen this case pursuant to Rule 60(b) and seeking sanctions against three of Plaintiffs' officials: Christopher Glynn, Timothy Ruddy, and Robert Schul [Doc. 393, 396, & 400]. For the reasons that the Court stated in its May 22 order denying Windsor sanctions against Plaintiffs' attorneys under Rule 11 [Doc. 390 at 13-15]-namely, untimeliness, a lack of substantive merit, and a failure to comply with the Rule 11 "safe harbor" requirement-Windsor's motions for Rule 11 sanctions against Plaintiffs' officials are also DENIED.

In the same vein, Windsor has filed multiple motions seeking Rule 11 sanctions against Plaintiffs and Plaintiffs' counsel for their alleged misconduct in responding to Windsor's numerous post- judgment motions [Doc. 486, 493, 515, & 635]. These Rule 11 motions are all DENIED, as they entirely lack substantive merit and did not comply with the Rule 11 "safe harbor" requirement.[38]

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[38] Having denied Windsor's motion for sanctions located at Docket Number 655, Plaintiffs' motion to strike that motion [Doc. 684] is

Therefore, for many of the same reasons justifying the Court's denial of Windsor's Rule 11 motion for sanctions in its May 22 order, all of Windsor's pending Rule 11 motions are also denied.

Windsor has filed multiple motions to strike Plaintiffs' responses that he argues fail to comply with the Local Rules [Doc. 456, 484 , & 511] However, the Local Rules provide that " [t]he court, in its discretion, may decline to consider any motion or brief that fails to conform to the requirements of [the Local Rules]." N.D. GA. R. 7.1(F) (emphasis added). Nothing in the Local Rules or the authorities cited by Windsor mandates striking Plaintiffs' responses, even if they do not conform with the Local Rules. The Court, in its discretion, refuses to strike those responses, and Windsor's motions to strike are thus DENIED.[39]

One of Windsor's motions seeks permission from the Court to waive the requirement that the corporate-entity defendants in this action be represented by counsel, rather than by Windsor

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DISMISSED AS MOOT. Having dismissed Plaintiffs` motion to strike, Plaintiffs' motion requesting leave for that motion to exceed the page limit set by the Local Rules [Doc. 6821 is also DISMISSED AS MOOT.

[39] As a result, Windsor's motion for leave to file a supplemental reply [Doc. 528] in support of one of his now-denied motions to strike Plaintiffs' responses is DISMISSED AS MOOT.

himself [Doc. 594]. "The rule is well established that a corporation is an artificial entity that can act only through agents, cannot appear pro se, and must be represented by counsel." Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985). Windsor presents no compelling arguments indicating why the Court should ignore the settled rule in the Eleventh Circuit that all corporate litigants must be represented by counsel. Windsor's motion requesting leave to contravene that principle and represent the corporate-entity defendants himself [Doc. 594] is DENIED.[40]

Windsor's motion seeking to disqualify Plaintiffs' attorneys from further representing Plaintiffs in this action [Doc. 412] cites no applicable legal authority for the Court to take such action,"[41] and is therefore DENIED. Windsor's motion requesting the "judicial intervention" of the chief judges of the Northern District of Georgia and the Eleventh Circuit Court of Appeals, the Chief Justice of the United States Supreme Court, the United

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[40] Plaintiffs' motion to strike Windsor's motion for waiver of the corporate-counsel rule [Doc. 694], and Plaintiffs' motion for leave of the Court permitting their motion to strike to exceed the Local Rules' page limit [Doc. 693] are both DISMISSED AS MOOT.

[41] Citations in the motion to Rule 11, which has no disqualification provision, and Georgia Rule of Professional Conduct 1.7(a), which the Court may not itself employ to disqualify attorneys from appearing before it, do not provide valid legal authority for Plaintiffs' attorneys' disqualification.

States Attorney General, and the chairmen of the United States Senate and House Committees on the Judiciary [Doc. 569] in this matter cites no legal authority for the Court to take the actions requested, and is DENIED. Similarly, Windsor's motion requesting that the undersigned produce documents requested in a previously served subpoena, and that the undersigned hold herself in contempt of court [Doc. 675] cites no applicable legal authority for the Court to take such actions and is, therefore, DENIED.[42] Windsor's "Emergency Motion to Clear the Docket of This Court" [Doc. 702] cites no legal authority for the Court to take the action requested and is, therefore, DENIED.

Finally, Windsor has filed a motion requesting that the Court lift the seal under which Plaintiffs filed various documents on February 15, 2007 [Doc. 561] The Court issued an order permitting Plaintiffs to file these documents under seal [Doc. 167], and the Court has already denied Windsor's previous motion to compel Plaintiffs and the Court to produce these documents by lifting the seal [Doc. 209]. Final judgment having been entered in this case, the reasons for denying Windsor's request to lift the seal and produce these documents are only magnified.

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[42] Having denied Windsor' s motion to compel and motion for the undersigned to hold herself in contempt of court [Doc. 675], Plaintiffs' motion to join in the undersigned's response in opposition to Windsor's motion [Doc. 705] is DISMISSED AS MOOT.

Windsor's motion requesting that the Court lift the seal and produce the documents filed by Plaintiffs over two years ago [Doc. 561] is DENIED.

B. Verified Complaint of Professional Misconduct

Pursuant to Local Rule 83.1(F), Windsor has filed a Verified Complaint of Professional Misconduct against Plaintiffs, attorneys and the undersigned,[43] alleging various forms of misconduct by this group, which he collectively refers to as "the Conspirators" [Doc. 474 at 1] Local Rule 83.1 (F) (2) (a) permits the district judge to whom a litigant or attorney directs a complaint of professional misconduct to terminate the inquiry if "the question raised is unsupported or insubstantial." See also ChemFree Corp. v. J. Walter, Inc., Civil Case No. 1:04-CV-3711-JTC, 2008 WL 5234252, at *3 (N.D. Ga. June 11, 2008) ("If the questions raised in the complaint [of professional misconduct] are unsupported or unsubstantiated, the judge may simply terminate the inquiry.").

The Court concludes that the questions raised by Windsor's Verified Complaint of Professional Misconduct are unsupported and unsubstantiated by

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[43] Windsor cites no authority for the proposition that the Local Rules permit the assertion of a complaint of professional misconduct against the district judge to whom the complaint has been directed.

any credible evidence, and thus terminates its inquiry into Plaintiffs' attorneys' conduct, as it may pursuant to Local Rule 83.1 (F) (2) (a). Windsor uses the Verified Complaint of Professional Misconduct to aim his oft-repeated, caustic remarks at Plaintiffs' attorneys, the undersigned, and various members of the federal judiciary in Atlanta. Unsubstantiated invective aside, Windsor's complaints of misconduct have been raised, addressed, and denied on their merits repeatedly by this Court and others. Employing the discretion granted by Local Rule 83.1(F)(2)(a), the Court terminates its inquiry into the conduct of Plaintiffs' attorneys and refuses to refer this matter to the State Disciplinary Board of the State Bar of Georgia. Windsor's Verified Complaint of Professional Misconduct [Doc. 474] is DISMISSED. Windsor's ancillary motions seeking discovery and sanctions pursuant to the verified Complaint of Professional Misconduct [Doc. 468 & 472] are DISMISSED AS MOOT.

C. Plaintiffs' Pending Motions

Plaintiffs have nineteen motions currently pending in this case, seven of which the Court has already dismissed as moot. The Court will address an additional eleven of those motions here, leaving Plaintiffs' motion to permanently enjoin Windsor, and those acting in concert with him or at his behest, from filing any future pleadings or papers [Doc. 4581 for Part II.D of this order.

Plaintiffs have filed motions to strike ten replies filed by Windsor in support of ten of his

motions for substantive relief.[44] As the Court has denied or dismissed as moot those ten motions, the Court need not consider Plaintiffs' motions to strike Windsor's replies in support thereof. As a result, Plaintiffs' motions to strike Windsor's replies [Doc. 619-624 & 695-698] are DISMISSED AS MOOT.[45] Plaintiffs have also filed a motion to strike Windsor's second motion to modify the injunction in this case. As the Court has now dismissed that motion as moot, the Court need not consider Plaintiffs' motion to strike Windsor's motion. Thus, Plaintiffs' motion to strike Windsor's second motion to modify the injunction in this case [Doc. 626] is DISMISSED AS MOOT.[46]

D. Injunction

The foregoing dispositions of Windsor's motions and verified Complaint of Professional

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[44] Namely, Windsor's motions located at Docket Numbers 547, 561, 563, 567, 569, 571, 590, 592, 594, and 602.

[45] In turn, the Court dismisses six of Windsor's pending motions, which request that the Court strike Plaintiffs, motions to strike his replies. Windsor's motions to strike six of Plaintiffs' now-dismissed motions to strike [Doc. 646, 649, 652, 655, 658, & 661] are DISMISSED AS MOOT.

[46] Also, because Windsor's second motion to modify the injunction has been dismissed as moot, the Court need not consider Windsor's motion to strike Plaintiffs' response to that motion. Thus, Windsor's motion to strike Plaintiffs' response [Doc. 678] is DISMISSED AS MOOT.

Misconduct presuppose that the Court possesses the authority to address those motions at all. This is, of course, a closed case that the Court has previously refused to reopen or otherwise reconsider. Windsor signed the Consent Final Order and Judgment over a year ago, indicating his agreement that the case was "closed[,] all issues having been decided" (Doc. 354 at 4] The Court of Appeals sua sponte dismissed Windsor's appeal of this Court's order declining to reopen the case, characterizing the appeal as frivolous.

Yet Windsor has persisted in filing dozens of motions, accompanied by thousands of pages in support thereof, seeking relief from this Court, despite the final disposition of this case by consent of the parties in the Consent Final Order and Judgment. Nothing in the record suggests that, absent extraordinary steps taken to stem Windsor's excessive litigiousness, he will cease his demands on the Court's, Plaintiffs', and Plaintiffs' counsel's time and resources in this closed case.[47]

Plaintiffs move the Court to permanently enjoin Windsor

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[47] Indeed, Windsor has repeatedly asserted that he "plans to file everything that seems to be allowed under the rules and the law until a hearing is held" [Doc. 669 at 11] and that he "intends to continue to file motions for hearings and conferences on a regular basis" [Doc. 663 at 4].

> and any other persons acting at his behest or in concert with him from filing any other pleadings in Civil Action No. 1:06-CV-0714-ODE and Civil Action No. 1:09-CV-1543-WSD and from filing in any federal court any pleadings against [Plaintiffs] and any of [their] affiliates unless (1) it involves claims not arising from the same factual predicate or nucleus of operative facts as those alleged in Civil Action No. 1:06-CV-0714-ODE and Civil Action No. 1:09-CV-1543-WSD and (2) has attached a written order from a judge of this Court confirming that the action is not frivolous.

[Doc. 458 at18].

This Court indisputably possesses "both the inherent power and the constitutional obligation to protect [its] jurisdiction from conduct which impairs [its] ability to carry out Article III functions." Procup v. Strickland, 792 F.2d 1069, 1073 (11th Cir. 1986). Specifically, "[t]he court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others." Id. at 1074. A litigant who abuses the federal judiciary "can be severely restricted as to what he may file and how he must behave in his applications for judicial relief. He just cannot be completely foreclosed from any access to the court." Id.

In addition, the All Writs Act provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or

appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a)"In allowing courts to protect their `respective jurisdictions,' the [All Writs] Act allows them to safeguard ongoing proceedings as well as already-issued orders and judgments." Klay v. United Health Group, Inc., 376 F.3d 1092, 1099 (11th Cir. 2004).[48] A party seeking an injunction under the All Writs Act, fashioning relief under that

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[48] 18 See also United States v. New York Tel. Co., 434 U.S. 159, 171 (1977) (noting that the Supreme Court has "repeatedly recognized the power of a federal court to issue such commands under the All Writs Act as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained"); Riccard v. Prudential Ins. Co., 307 F.3d 1277, 1295 n.15 (11th Cir. 2002) ("The court's power to protect its jurisdiction includes the power to enjoin a dissatisfied party bent on re-litigating claims that were (or could have been) previously litigated before the court from filing in both judicial and non-judicial forums, as long as the injunction does not completely foreclose a litigant from any access to the courts."); Del Ping v. AT&T Info. Sys., Inc., 921 F.Supp. 761, 765 (S.D. Fla. 1996) ("Under the All-Writs Act, 28 U.S.C. § 1651, this Court has the power to enjoin Plaintiff from relitigating claims that were or could have been decided by this Court in order to protect and effectuate this Court's Final Judgment.").

statute, and by analogy a court,' must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being threatened by someone else's action or behavior." Id. at 1100.

Windsor's persistently litigious behavior undermines the integrity of the Consent Final Order and Judgment submitted by the parties and signed by the Court in this case, as well as the other orders thus far issued by the Court, through repeated unsubstantiated collateral attacks, procedurally improper post- judgment motions, and increasingly bitter rhetoric. Windsor's continued filing of frivolous, improper post-judgment motions also continues to subject Plaintiffs to needless trouble and expense.

Accordingly, taking into account that this is a closed case, Windsor, and any parties acting in concert with him or at his behest, are therefore PERMANENTLY ENJOINED from filing any further motion, pleading, or other paper in Civil Action No. 1:06-CV-0714- ODE. Regarding Civil Action No. 1:09-CV-1543-WSD, the undersigned will take no action on Plaintiffs' injunctive request, because that case is an open matter which is assigned to Judge Duffey.

Finally, Windsor is ORDERED not to file in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case. These claims would be barred by the doctrine of res judicata. The filing of such claims would serve no purpose except

to harass Plaintiffs, and would probably result in sanctions against Windsor.

III. Conclusion

The Court has carefully considered the parties' submissions. As this remains a closed case, and for the additional reasons stated above, all of Windsor's currently-pending motions are DISMISSED. Windsor's Verified Complaint of Professional Misconduct [Doc. 474] is DISMISSED. All of Plaintiffs' motions [Doc. 619-624, 626, 681-684, 693-698] are DISMISSED, except for Plaintiffs' motion to enjoin Windsor and those acting in conjunction with him from filing further pleadings in this and other courts [Doc. 458] , which is GRANTED IN PART and DENIED IN PART.

Windsor, and any parties acting in concert with him or at his behest, are PERMANENTLY ENJOINED from filing any motion, pleading, or other paper in Civil Action No. 1:06-CV-0714-ODE. Additionally, Windsor is ORDERED not to file in any court any new lawsuit involving claims arising from the same factual predicate or nucleus of operative facts as the instant case.

SO ORDERED, this 22nd day of December, 2009.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on the pro se Notice of Appeal received in chambers on December 31, 2009. Although Defendant William M. Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or papers in this closed case by the Court's order of December 22, 2009, the Court will permit the Clerk of Court to file Windsor's pro se Notice of Appeal so as not to prejudice Windsor's right to appeal the Court's December 22 order. The Clerk is therefore DIRECTED to file the Notice of Appeal as of December 31, 2009. Notwithstanding this

limited exception, the injunction imposed by the Court's order of December 22, 2009, otherwise remains in full force and effect.

SO ORDERED, this 5 day of January, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on a "Motion for Post-Judgment Attorney's Fees and Expenses" filed, through counsel, by Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. [Doc. 728]. Defendant William M. Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or papers in this closed case by the Court's order of December 22, 2009. However, the Court will permit Windsor to file a response to Plaintiffs' motion, if he so chooses, and the Clerk of Court is DIRECTED to enter any such response on the case's docket. Any such response must be filed no later than January 27, 2010. Notwithstanding this limited exception,

the permanent injunction imposed by the Court's order of December 22, 2009, otherwise remains in full force and effect.

SO ORDERED, this 13 day of January, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil case comes before the Court on a motion for post-judgment attorneys' fees and expenses filed, through counsel, by Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") [Doc. 728], to which Defendant William M. Windsor ("Windsor") has filed a pro se "preliminary response and objections" [Doc. 735] and in support of which Plaintiffs have replied [Doc. 738].

For the reasons stated below, the Court ORDERS that a hearing before the undersigned on Plaintiffs' motion be held at 1:30 p.m. on Thursday, April 8, 2010, in Courtroom 1908 of the Richard B. Russell Federal Building and United States

Courthouse located at 75 Spring Street SW, Atlanta, Georgia, 30303.

I. Discussion

A. Jurisdiction

As an initial matter, the Court concludes, upon review, that it possesses jurisdiction to hear, consider, and determine the outcome of Plaintiffs' motion. The Court indisputably possesses "both the inherent power and the constitutional obligation to protect [its] jurisdiction from conduct which impairs [its] ability to carry out Article III functions." Procup v. Strickland, 792 F.2d 1069, 1073 (11th Cir. 1986).

Although this civil action remains closed, the Court retains jurisdiction to protect its previously-entered orders and final judgment, including the authority to assess attorneys' fees and expenses against any litigant who might undermine those orders in bad faith.[49]

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[49] See also Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 395 (1990) ("It is well established that a federal court may consider collateral issues after an action is no longer pending. For example, district courts may award costs after an action is dismissed for want of jurisdiction. [M]otions for costs or attorney's fees are `independent proceedings] supplemental to the original proceeding and not a request for modification of the original decree.' Thus, even `years after the entry of a judgment on the merits' a federal court could consider an award of counsel fees.'") (quoting, in turn, Sprague v. Ticonic Nat'l

B. Recusal

Title 28, Section 455(a) of the United States Code provides that " [a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.[50] Although neither party has moved the undersigned to recuse herself from considering the instant motion, the Court recognizes the unique circumstances of this case and will address the recusal question sua sponte.

On August 9, 2007, the Court granted Plaintiffs summary judgment on Defendants' counterclaims in this case, finding the counterclaims to be entirely meritless and also finding that

> Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's

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Bank, 307 U.S. 161, 170 (1939), and White v. N.H. Dep't of Employment Sec., 445 U.S. 445, 451 n.13 (1982)).

[50] Title 28, Section 455(b)(1) also requires a judge to disqualify himself, in pertinent part, "[w]here he has a personal bias or prejudice concerning a party." The Court notes that it possesses no personal bias or prejudice for or against any of the parties involved in this litigation and is confident that it can fairly and impartially resolve the instant motion.

> credit authorization was clearly stubbornly litigious. From Mr. Windsor's emails threatening to sue Maid and seeking four million dollars in damages, to the complaints filed with the Attorneys General and Better Business Bureaus, to Alcatraz's treatment of Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005, it was Alcatraz's and Windsor's stubbornly litigious actions that gave rise to this litigation. This [was] a straightforward, simple case that Alcatraz and Windsor unduly complicated and prolonged as a result of harboring hostile personal feelings against Maid.

[Doc. 251 at 43] The Court thus granted summary judgment to Plaintiffs on their claim for attorneys' fees and expenses pursuant to O.C.G.A. § 13-6-11 [Doc. 251 at 44].

On September 19, 2008, the Court of Appeals affirmed this Court's summary judgment order on its merits, concluding that the Court "properly granted summary judgment to Maid on its claim for tortious interference with business operations and properly issued a permanent injunction against Alcatraz and Windsor" [Doc. 344 at 7]. In addition, the Court of Appeals concluded that "Alcatraz's counterclaims were meritless, and Alcatraz asserted these claims to cause Maid unnecessary financial hardship" [Doc. 344 at 8]. Finally, the Court of Appeals concluded that the Court "properly determined that Maid [was] entitled to recover attorney's fees and expenses under O.C.G.A. § 13-6-11 based on Alcatraz and

Windsor's stubbornly litigious pre-suit conduct that gave rise to this litigation" [Doc. 344 at 8].[51]

After the partial vacatur and remand of the summary judgment order by the Court of Appeals, the parties entered into settlement negotiations. On December 9, 2008, the parties entered into a "Consent Final Order and Judgment," signed by the Court, that ordered Plaintiffs to recover $395,000.00 in attorneys' fees and expenses from Defendants [Doc. 354 at 2] The Consent Final Order and Judgment stated that it would "resolv[e] all claims in the case, including claims for attorney fees, expenses, and costs" [Doc. 354 at 4] Plaintiffs, attorney, counsel for the Alcatraz Defendants, Windsor's attorney, and Windsor himself signed this document [Doc. 354 at 5-10].

Notwithstanding this final settlement, on April 24, 2009, Windsor filed pro se motions requesting (1) that the undersigned recuse herself from further participation in this closed case [Doc.

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[51] However, the Court of Appeals vacated this Court's award of attorneys' fees and expenses, concluding that the Court's "limited explanation of its award of attorney's fees and expenses preclude [d] meaningful review" [Doc. 344 at 9-10]. The Court of Appeals remanded the case to this Court solely "for reconsideration of the award with a full, explicit explanation of the reasons for the [Court's] determination of these amounts" [Doc. 344 at 10].

361] and (2) that the case be reopened pursuant to Federal Rule 60(b) [Doc. 362]. On May 22, the Court denied both of these motions, among several others [Doc. 390]. On September 9, 2009, the Court of Appeals dismissed Windsor's appeal of the Court's May 22 order as frivolous and dismissed all pending motions filed by Windsor as moot [Doc. 545].

On April 27, 2009, Windsor filed a pro se Complaint of Judicial Misconduct against the undersigned with the Judicial Council of the United States Court of Appeals for the Eleventh Circuit. On May 29, then-Chief Judge J.L. Edmondson dismissed Windsor's complaint pursuant to 28 U.S.C. § 352(b) (1) {A} On June 18, Windsor filed a pro se Petition for Review of former Chief Judge Edmondson's dismissal order. On August 25, the Judicial Council affirmed former Chief Judge Edmondson's disposition.

On May 20, 2009, Windsor served a deposition subpoena on the undersigned in chambers with a return date of June 16, 2009. Judge William S. Duffey, also of this district, initially stayed and ultimately quashed that subpoena [Docs. 4 & 32, No. 1:09-CV-1543-WSD] On September 23, Windsor appealed Judge Duffey's order quashing the subpoena to the Court of Appeals [Doc. 46, No 1:09-CV-1543-WSD] On February 25, 2010, the Court of Appeals sua sponte dismissed Windsor's appeal as frivolous [Doc. 52 at 2, No. 1:09-CV-1543-WSD]. The court noted that Windsor's "motion to disqualify and the other motions filed by [Windsor] fail [ed] to allege any valid basis for disqualification" and that

Windsor's brief "fai1[ed] to meaningfully challenge [Judge Duffey's] orders on appeal" [Doc. 52 at 2, No. 1:09-CV-1543--WSD] The court also "readily conclude[d] that [Windsor's] conduct in [the Court of Appeals met] the requirement for imposition of Rule 38 sanctions," and determined to sanction him accordingly [Doc. 52 at 4, No. 1:09-CV-X543-WSD].

On July 27, 2009, Windsor sued the undersigned, Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., the private law firms of Hawkins & Parnell LLP and Phillips Lytle LLP, numerous individual attorneys, and several other defendants based on disagreements with the outcome of this litigation [Doc. 1, No. 1:09-CV-2027-WSD] That civil action was also assigned to Judge Duffey, who on July 30 stayed the case entirely and ordered all parties to obtain leave of the court before filing any additional motions or papers [Doc. 22, No. 1:09-CV-2027-WSD] Appeals from Judge Duffey's orders are still pending in the Court of Appeals.

In October 2009, Windsor filed a pro se petition for a writ of mandamus with the Court of Appeals. That petition requested that the Court of Appeals order the undersigned to recuse herself from this closed case, to vacate the orders previously entered in this case, to order the undersigned to conduct an evidentiary hearing or conference on matters raised by Windsor, to order the undersigned to permit Windsor to conduct further discovery in this closed case, and to order further relief. On

December 14, 2009, the Court of Appeals denied Windsor's petition [Doc. 722].

On December 30, 2009, Windsor filed two additional pro se petitions for writs of mandamus with the Court of Appeals. The first petition requested that the Court of Appeals order the undersigned to unseal Docket Entry Number 168 in this closed case and "censure" the undersigned for denying Windsor's prior motion seeking the same relief. The second petition requested that the Court of Appeals permit Alcatraz Media, LLC and Alcatraz Media, Inc. to proceed further in this closed litigation without counsel.

On February 18, 2010, the Court of Appeals denied these petitions for writs of mandamus [Doc. 739-17].

On February 2, 2010, Windsor sued the undersigned, Judge Duffey, Northern District of Georgia Chief Judge Julie E. Carnes, Chief Judge of the Court of Appeals Joel F. Dubina, the United States Department of Justice, the Federal Bureau of Investigation, the Administrative Offices of the United States Courts, Attorney General Eric Holder, Acting United States Attorney for the Northern District of Georgia Sally Qullian Yates, Senator Patrick Leahy, Representative John Conyers, the United States Senate Committee on the Judiciary, the United States House Committee on the Judiciary, Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., and several other defendants in the United States District Court for the District of Columbia, again based on

disagreements with the outcome of this litigation [Doc. 1, Civil Case No. 10-0197 (RJL)]. In his pro se complaint, Windsor alleged in part that:

> The actions of Judge Evans, Judge Duffey, Judge Julie E. Carnes, Judge Joel F. Dubina and the judges of the Eleventh Circuit bring shame on the legal system and the federal judiciary. These officers of the court have conspired to perpetrate fraud directed squarely at the integrity of the decision-making of the federal courts.
>
> This civil action is about these dishonest federal judges, a judicial system that tramples the Constitutional rights of U.S. citizens, and the failure of the various individuals [sic] authorities established to protect citizens to do anything about this.
>
> The judicial system supports this dishonesty and illegality. The "system" denies any form of valid recourse for an aggrieved citizen.
>
> Since the Supreme Court isn't really in the business of correcting errors by the lower courts, the N.D.Ga. and the Eleventh Circuit combine to have tyrannical power.
>
> In an alleged effort to insulate judges from regular legal actions against them, these same judges have obliterated the fundamental rights of U.S. citizens. Judges have been sanctioned to commit crimes and break laws with no concern about consequences.

> This is the story of the fantasy of Constitutional rights and justice in the federal courts in Atlanta, Georgia.
>
> Windsor submits that this "Form of Government" that allows judges to wreak havoc on litigants has "becomes [sic] destructive of these ends," and "it is" Windsor's right "to alter or to abolish it, and to institute new Government."
>
> This was a deliberately planned and carefully executed scheme to defraud not only the District Courts but also the Court of Appeals and [t]he Supreme Court. To achieve their purposes, the officers of the court created false statements of fact, deceived the courts, withheld important evidence, and more.
>
> Defendants, in some way or manner, came to mutual understandings to try to accomplish a common and unlawful plan as described previously. The mutual understanding was to break the law.
>
> Judge Evans and Judge Duffey have committed Treason to the Constitution.

[Doc. 1, Civil Case No. 10-0197 (RJL), ¶¶ 4, 6, 12-13, 18, 20,2115, 2294, 2405, 2899]. Referring to Windsor as a "serial filer," Judge Richard J. Leon dismissed the complaint as frivolous on February 14 [Doc. 8, Civil Case No. 10-0197 (RJL)] The Court has

attached a copy of Judge Leon's memorandum opinion to this Order.

For purposes of considering and deciding the instant motion, the Court sua sponte concludes that Windsor's actions do not provide sufficient grounds for recusal under 28 U.S.C. § 455(a). The standard to apply in considering whether recusal is warranted under Section 455(a) "is whether an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality." United States v. Patti, 337 F.3d 1317, 1321 (11th Cir. 2003) (internal quotation omitted).

Having reviewed the factual and procedural circumstances of this closed case, the Court concludes that no objective, disinterested lay observer would entertain a significant doubt about the undersigned's impartiality in considering the instant motion, Windsor has indiscriminately filed lawsuits, complaints of judicial misconduct, petitions for writs of mandamus, and appeals against anyone that he perceives as standing in the way of pursuing his aims-which include denigrating the federal judiciary and hurling allegations of a massive judicial. conspiracy. Windsor's perceptions of this alleged conspiracy, and the doggedness with which he pursues them, defy description, but do not suffice as grounds for the undersigned's recusal. Specifically, although Windsor's past behavior has been aimed in part at the undersigned, he has not targeted his rancor with any real specificity or direction. The undersigned has simply been repeatedly caught in Windsor's ever-widening web of

litigation. And even if the undersigned did recuse herself from considering the instant motion, a new judge would be required to expend significant time and resources in comprehending the massive record that this case has engendered, and would likely find him or herself on the receiving end of future frivolous litigation initiated by Windsor.

"A judge is not disqualified [under 28 U.S.C § 455 (a) 1 merely because a litigant sues or threatens to sue him." United States v. Grismore, 564 F.2d 929, 933 (10th Cir. 1977). See also In re Taylor, 417 F.3d 649, 652 (7th Cir. 2005) ("There is no rule that requires a judge to recuse himself from a case simply because he was or is involved in litigation with one of the parties."). "One reason for this policy is that a per se rule of disqualification would allow litigants to judge shop by filing a suit against the presiding judge." Id. (citing In re Nettles, 394 F.3d 1001, 1003 (7th Cir. 2005)). "And even if litigation against a judge is not for the purpose of disqualification, recusal is not automatic because suits against public officials are common and a judge would likely not harbor bias against someone simply because the person named him in a meritless civil suit." Id. (citing Lyons v. Sheetz, 834 F.2d 493, 495 n.l (5th Cir. 1987)).

Given these authorities and the discussion above, the Court concludes that no objective, disinterested lay observer fully informed of the facts and procedural history of this closed case would entertain a significant doubt about the impartiality of the undersigned. Disqualification is not required under 28 U.S.C. § 455(a) simply because Windsor

sued the undersigned, among others, in this and another federal district court. In addition, "[j]ust as litigants should not be allowed to force a particular judge off a case by suing or threatening to sue the judge, neither should litigants be allowed to force a judge off a case by filing a judicial complaint," as Windsor has also done. Woodruff v. McLane, No. 7:04-CV-96 (HL), 2006 WL 3436045, at *1 (M.D. Ga. Nov. 29, 2006). Requiring recusal in every case where a litigant has filed a judicial complaint against the presiding judge "could lead to abusive and frivolous filings of judicial complaints." Id. at *2.

For these reasons, and as the Court retains jurisdiction to protect the Consent Final Judgment and Order and other orders previously entered in this closed case, the Court concludes that it may consider Plaintiffs' motion.

C. The Instant Motion

Plaintiffs move for post-judgment attorneys' fees and expenses against Defendants Alcatraz Media,LLC, Alcatraz Media, Inc., and Windsor pursuant to three distinct sources: 28 U.S.C. § 1927,[52]

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[52] Section 1927 provides, in pertinent part, that "[a]ny attorney or other person admitted to conduct cases in any court of the United States who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct."

O.C.G.A. § 13-6-11,[53] and the Court's inherent authority.[54] Plaintiffs have submitted declarations of

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[53] O.C.G.A. § 13-6-11 provides that `1[t]he expenses of litigation generally shall not be allowed as a part of the damages; but where the plaintiff has specially pleaded and has made prayer therefor and where the defendant has acted in bad faith, has been stubbornly litigious, or has caused the plaintiff unnecessary trouble and expense, the jury may allow them." The Court notes that, in its prior order granting Plaintiffs' motion for summary judgment on the merits, it found that "Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's credit authorization was clearly stubbornly litigious," making summary judgment for Plaintiffs on their claim for attorneys' fees and expenses under O.C.G.A. § 13-6-11, at that stage, appropriate [Doc. 251 at 43-44].

[54] See, e.g., Chambers v. NASCO, Inc., 501 U.S. 32, 50 (1991) ((district courts retain the "inherent power" to impose sanctions, including attorneys' fees, where a litigant engages in bad-faith conduct); Roadway Express, Inc. v. Piper, 447 U.S. 752, 765 (1980) ("There are ample grounds for recognizing that in narrowly defined circumstances federal courts have inherent power to assess attorney's fees against counsel."); Bvrne v. Nezhat, 261 F.3d 1075, 1106 (11th Cir. 2001) ("One aspect of a court's inherent power is the ability to assess attorneys' fees and costs against the client or his attorney, or both, when either has `acted in bad

attorneys, some of whom represented Plaintiffs during this litigation, regarding the reasonableness of the fees and expenses that Plaintiffs incurred after this litigation concluded, as well as spreadsheets indicating the attorneys' fees and expenses allegedly incurred by Plaintiffs and describing the fees charged by counsel analogous to Plaintiffs' counsel in Atlanta and other legal markets [Attachments to Doc. 728, Doc. 736 and Attachments, & Doc. 737 and Attachments].[55] Windsor filed a pro se "preliminary response and objections" to Plaintiffs' motion in which he asserts

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faith, vexatiously, wantonly, or for oppressive reasons. "` (citing Chambers, 501 U.S. at 45-46)).

[55] Northern District of Georgia Local Rule 54.2 (A) (2) provides that, " [w] ithin thirty (30) days (or such other period as the court may prescribe) after filing the motion [for post-judgment attorneys' fees and expenses], the movant shall file and serve a detailed specification and itemization of the requested award, with appropriate affidavits and other supporting documentation." Plaintiffs submitted these documents in accordance with this rule.

that he "chooses to be heard at an evidentiary hearing on this motion" [Doc. 735, ¶2.][56]

Northern District of Georgia Local Rule 7.1(E) provides that "(m]otions will be decided by the court without oral hearing, unless a hearing is ordered by the court." In considering a motion for post-judgment attorneys' fees and expenses, however, Local Rule 54.2(A)(3) provides that "[h]earings on the motion shall be conducted by the court in accordance with Fed. R. Civ. P. [43(c)] and Fed. R. Civ. P. 78 and in accordance with applicable statutory and decisional standards."

The Court has reviewed the relevant case law defining what procedures must be followed in determining whether to assess post- judgment attorneys' fees and expenses against a litigant or their counsel. Regarding 28 U.S.C. § 1927, the Court of Appeals has clearly stated that "[c]ounsel subject to section 1927 sanctions are entitled to be heard regarding the matter." Reynolds v. Roberts, 207 F.3d 1288, 1302 (11th Cir. 2000) (citing Braley v. Campbell, 832 F.2d 1504, 1514-15 (10th Cir. 1987)

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[56] Although the Court, by order dated December 22, 2009, permanently enjoined Windsor and those acting in concert with him or at his behest from filing any further motions, pleadings, or papers in this closed case, the Court issued an order on January 13, 2010, permitting Windsor to file a response to Plaintiffs' motion [Doc.731].

(en banc)).[57] The requirement that counsel be heard before determining whether to assess Section 1927 fees and expenses against them is magnified in this case, where Plaintiffs seek attorneys' fees and expenses, to some extent, against Windsor, a pro se party. Due process requires that the Court hold a hearing on the instant motion before determining whether to assess, pursuant to Section 1927, any amount of fees and expenses reasonably incurred by Plaintiffs.

Regarding the Court's inherent authority, "[a] court must exercise caution in invoking its inherent power, and it must comply with the mandates of due process, both in determining that the requisite bad faith exists on the part of a litigant or their counsel] and in assessing fees." Chambers, 501 U.S. at 50

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[57] See also Amlong & Amlong, P.A. v. Denny's, Inc., 500 F.3d 1230, 1242 (11th Cir. 2006), as amended Oct. 10, 2006, and Sept. 17, 2007 ("Plainly, an attorney threatened with sanctions under § 1927 is entitled to a hearing."); Campos v. City of Naples, 202 F. App'x 381, 385 (11th Cir. 2006) ("Whatever the source of authority upon which the district court drew, sanctions designed to compensate one party for expenses incurred due to the opposing party's misconduct [are] i n the nature of civil contempt, requiring notice and the opportunity to be heard prior to the award.") (citing Serra Chevrolet, Inc. v. Gen. Motors Corp., 446 F.3d 1137, 1147 (11th Cir. 2006)).

(citing Roadway Express, 447 U.S. at 767).[58] In addition, "when exercising its discretion to sanction under its inherent power, a court must take into consideration the financial circumstances of the party being sanctioned" so that the court can use its inherent authority "to fashion `an appropriate sanction.'" Martin v. Automobili Lamborahini Exclusive, Inc., 307 F.3d 1332, 1337 (11th Cir. 2002) (quoting Chambers, 501 U.S. at 44-45). To determine whether the requisite bad faith existed on the part of Windsor, whether and to what extent to assess post-judgment fees and expenses against Defendants, and the financial circumstances of the Defendants should the Court assess such fees and expenses against them, the Court must hold a hearing before disposing of Plaintiffs' motion."

For these reasons, the Court concludes that it must hold a hearing before considering and disposing of Plaintiffs' motion[59] for post-judgment attorneys, fees and expenses pursuant to 28 U.S.C.

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[58] See also Cameos, 202 F. App' x at 385 ("Even the award of sanctions under the court's inherent power must `comply with the mandates of due process.'") (quoting Chambers, 501 U.S. at 50).

[59] Plaintiffs argue that " [d]ue process does not require an actual hearing" before the Court may assess attorneys' fees and expenses pursuant to 28 U.S.C. § 1927 or its inherent authority. In support of this contention, Plaintiffs cite Merriman v. Sec. Ins. Co. of Hartford, 100 F.3d 1187 (5th Cir. 1996),and by extension Ingram v. Glast, Phillips & Murray, 196 F. App'x 232 (5th Cir. 2006) (per curiam) (unpublished

opinion). However, Merriman involved the imposition of sanctions under Federal Rule 11 - a source that Plaintiffs do not invoke. The Merriman court concluded that "[in Rule 11 cases, the opportunity to respond through written submissions usually constitutes sufficient opportunity to be heard." Merriman, 100 F.3d at 1192.

Aside from their bare citation to Ingram, a case which involved sanctions assessed pursuant to Section 1927 and the court's inherent authority, Plaintiffs do not indicate why the Rule 11-based conclusion in Merriman should extend to the Section 1927 or inherent-authority contexts under which the instant motion arises. To the contrary, "[w]hile many of the same general principles apply to sanctions under Rule 11 and sanctions under § 1927, Rule 11 and § 1927 are distinct sources of authority. They are aimed at addressing different kinds of misconduct, are different in scope, and are governed by quite different legal standards. Rule 11 cases do not dispose of the issues arising under § 1927." Amlong & Amlong, P.A. 500 F.3d at 1241 n.1. In light of this language from the Court of Appeals, and considering the even greater differences between Rule 11 and the Court's inherent authority as potential sanction sources, the Court finds Merriman, and its statement of what satisfies due process for purposes of assessing fees and expenses, inapposite.

Plaintiffs also assert that Reynolds "stands for the proposition that due process requires that a party is entitled to an opportunity to be heard, not that the district court must hold an actual hearing" [Doc. 738 at 5 n.3] Plaintiffs provide no citation from

§ 1927, O.C.G.A. § 13-6-11, and the Court's inherent authority. The Court will hold the hearing at 1:30 p.m. on Thursday, April 8, 2010, in Courtroom 1908 of the Richard B. Russell Federal Building and United States Courthouse located at 75 Spring Street SW, Atlanta, Georgia, 30303.

The Court advises the parties that the sanctions hearing will concern only those matters materially related to the instant motion-including, most pertinently, whether Windsor's actions evidenced the requisite bad faith for an award of post-judgment fees and expenses, the reasonableness of the fees sought by Plaintiffs, and Defendants'

Reynolds to support this contention. The court in Reynolds cited Braley v. Campbell in support of its assertion, quoted above, that "[c]ounsel subject to section 1927 sanctions are entitled to be heard regarding the matter." 207 F.3d at 1302. Braley makes clear that "'[l]i ke other sanctions, attorney's fees certainly should not be assessed lightly or without fair notice and an opportunity for a hearing on the record '" and that "a hearing generally will be necessary to determine the amount of the costs to be paid, and trial courts are better equipped for hearing conflicting evidence." 832 F.2d at 1514 (quoting Roadway Express, 447 U.S. at 767) (emphasis added). Reading Reynolds in light of this dicta from Braley cuts against Plaintiffs' characterization of what the discussion of sanctions in Reynolds actually means.

financial circumstances and ability to pay an award of fees and expenses to Plaintiffs, if any.

Plaintiffs request attorneys' fees and expenses based on Windsor's conduct dating from "April 24, 2009, when [he] first attempted to reopen this closed case pursuant to Rule 60(b)," to the present [Doc. 728 at 3] However, the Court notes that, in an order dated May 22, 2009, it expressly denied Plaintiffs attorneys' fees and expenses sought under O.C.G.A. § 13-6-11 and Federal Rule 37(a)(5)(B) for Windsor's conduct in filing the numerous post- judgment motions that the order addressed, including Windsor's Rule 60(b) motion to reopen [Doc. 390 at 17-18] Because the Court already denied Plaintiffs attorneys' fees and expenses based on Windsor's conduct in filing these post-judgment motions, the Court will not revisit that issue. Instead, the Court will only consider whether to grant Plaintiffs attorneys' fees and expenses incurred as a result of Windsor's conduct in this case after May 22, 2009.

At the hearing, the Court will not consider motions or argument regarding further discovery in this closed case, the underlying merits of this litigation, the validity of the permanent injunction previously entered in this case, any matters already ruled upon by the Court in the course of this litigation, any matters already appealed to and ruled upon by the Court of Appeals as part of this litigation, or any matters currently on appeal to the Court of Appeals or on petition for writ of certiorari

to the United States Supreme Court from this litigation.[60]

Having conducted a preliminary review of the billing abstracts submitted by Plaintiffs in support of the instant motion [Doc. 736-5 & Doc. 737-5 to 737-8], the Court DIRECTS Plaintiffs to file a brief parsing out and aggregating the attorneys' fees and expenses sought from Defendants grouped according to the specific post-judgment motions for which such fees and expenses were incurred by Plaintiffs. The brief must indicate which of Plaintiffs' law firms performed what specific work with regard to which of Windsor's post-judgment motions and what fees and expenses were billed to Plaintiffs as a result of that work.[61] A brief submitted with such specificity

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[60] Plaintiffs assert that "Windsor's response (and his pre- litigation and post-judgment behavior) makes clear that he intends to improperly use [the sanctions] hearing as a mechanism to re-try this case on its substantive merits and to revisit issues already adjudicated by this Court and the Eleventh Circuit" [Doc. 738 at 7] The Court has fashioned the aforementioned limits on the matters that may be raised at the sanctions hearing with an eye toward preventing such a situation from arising. The Court further concludes that a hearing with clearly and properly delimited boundaries will provide all parties with due process and avoid the scenario that Plaintiffs envision.

[61] 13 The Court refers Plaintiffs to certain narratives found in Hawkins & Parnell LLP's billing abstract, which list the work done and the specific Docket Numbers of Windsor's post-judgment motions

will streamline the sanctions hearing and assist the Court in determining the reasonableness of the fees and expenses incurred by Plaintiffs after May 22, 2009, if the Court determines that an award of such fees and expenses is warranted. Plaintiffs must file their brief by Friday, March 26, 2010, and Defendants must file any response to the brief by Monday, April 5, 2010. Notwithstanding the permanent filing injunction imposed on Windsor and all those acting in concert with him or at his behest by the Court's order of December 22, 2009, the Clerk of Court is DIRECTED to enter any such response by Defendants on the case docket.

Except for the filings directed or specifically permitted by this Order, the Court DIRECTS all parties to refrain from filing any further documents regarding the instant motion unless expressly requested to do so by the Court.

SO ORDERED, this 9 day of March, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

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that such work addressed, as models for the brief to be submitted [Doc. 737-5 at 22].

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil case comes before the Court on two motions filed, through counsel, by Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs")[Docs. 739 & 741]. Plaintiffs move the Court to order William M. Windsor ("Windsor"), Alcatraz Media, LLC, Alcatraz Media, Inc. (collectively, "Defendants"), non-party Michelle Thornton, and non-party Ryan Windsor to show cause why they should not be held in contempt of this Court's order dated December 22, 2009. Plaintiffs seek sanctions against Windsor and those corporations and individuals based on Windsor's "contemptuous and contumacious behavior" [Doc. 739, ¶ 53] The motions are GRANTED IN PART.

Plaintiffs move the Court to hold the individuals and corporations listed above in contempt of the Court's December 22 order based on Windsor's filing of (1) several petitions for writs of mandamus in the United States Court of Appeals for the Eleventh Circuit and (2) a new civil action in the United States District Court for the District of Columbia [Doc. 739, ¶¶ 50-52].

The December 22 order prohibited Windsor and "any parties acting in concert with him or at his behest" from filing any further motions, pleadings, or other papers in the instant lawsuit [Doc. 723 at 19] Nonetheless, the corporate defendants and Windsor filed petitions for writs of mandamus on December 30, 2009 in this case. Alcatraz Media, LLC, Alcatraz Media, Inc., Ryan Windsor (part owner of the Alcatraz entities), and Windsor are ORDERED to show cause why they should not be held in contempt of court for these filings. The Court will not require Michelle Thornton, who apparently works for one or both of the Alcatraz entities, to respond to Plaintiffs' motions, as it is unclear whether she had actual notice of the Court's December 22 order.

The December 22 order also prohibited Windsor, and Windsor alone, from filing "in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case," which "would be barred by the doctrine of res judicata" and "would serve no purpose except to harass Plaintiffs" [Doc. 723 at 19] Windsor subsequently filed the suit in the United States District Court for the District of Columbia and, even though it was dismissed, still continues his efforts to

prosecute that case. To the extent that Plaintiffs move the Court to hold any individuals or corporations other than Windsor in contempt of the December 22 order based on this filing by Windsor, their motions are DENIED.

"Although a district court has a certain amount of discretion in fashioning civil contempt sanctions and the procedure by which those sanctions are imposed, the court must stay within the bounds of due process." Mercer v. Mitchell, 908 F.2d 763, 766 (11th Cir. 1990). Specifically,

> [w]hen the purportedly contumacious conduct occurs outside the presence of the court, due process requires, with very few exceptions, that the defendant (1) be informed, through a show-cause order, of his purportedly contumacious conduct, and (2) be given a hearing at which he can be represented by counsel, call witnesses, and testify in order to show cause why he should not be held in contempt.

Id. at 766-67 (citations and footnotes omitted).[62]

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[62] The Court notes that due process does not require a hearing prior to a finding of civil contempt "when there are no disputed factual matters that require an evidentiary hearing." Mercer, 908F.2d at 769 n.11 (citing Morales-Feliciano v. Parole Board, 887 F.2d 1, 6-7 (1st Cir. 1989), cert. denied, 494 U.S. 1046 (1990)). "This principle, however, implies its converse. If the court is faced with a material issue of fact, then due process requires the court to

The Court therefore ORDERS that a hearing before the undersigned on Plaintiffs' contempt motions be set for 2:00 p.m. on Friday, April 16, 2010, in Courtroom 1908 of the Richard B. Russell Federal Building and United States Courthouse located at 75 Spring Street SW, Atlanta, Georgia, 30303. At the hearing, the above-indicated parties will be required to show cause why an order should not be entered holding them in contempt of the Court's December 22 order.

Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or papers in this closed case. However, the Court will permit Defendants and Ryan Windsor to file one written response (either individually or collectively) to Plaintiffs' contempt motions. Windsor is ordered not to prepare or file a response on behalf of the corporate defendants or on behalf of Ryan Windsor. Any response(s) must be filed with the Clerk of Court no later than Friday, April 2, 2010. Notwithstanding this limited exception, the permanent filing injunction imposed by the Court's

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conduct a hearing." Id. (citing E.C. Ernst, Inc. v. Manhattan Constr. Co., 559 F.2d 268, 273 (5th Cir. 1977), cert. denied, 434 U.S. 1067 (1978)). Because the Court perceives material issues of fact that will arise between the parties regarding the bases for Plaintiffs' contempt motions, the Court concludes that due process requires a hearing in this instance.

order of December 22, 2009, otherwise remains in full force and effect.

Considering the serious nature of the penalties which could be imposed to deter future misconduct (including time in jail),[63] the Court strongly recommends that Windsor and Ryan Windsor obtain counsel to represent them. The corporate defendants are advised that they must obtain counsel to represent them. See Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1385 (11th Cir. 1985).

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[63] Plaintiffs appear to be seeking monetary and injunctive sanctions alone [Doc. 739, ¶ 53] However, the Court's civil contempt power is not limited to these sanctions, where such sanctions would be inadequate to deter forbidden conduct. See Combs v. Ryan's Coal Co., 785 F.2d 970, 981 (11th Cir. 1986) ("When an order of incarceration is conditioned upon a refusal to comply in good faith with a court order[,] then the purpose [of imprisonment] is coercive. Such incarceration represents a legitimate use of the civil contempt power of the court because it has the obvious purpose of compelling the [contemnor] to obey the orders [of the court]. When the [contemnor] carr[ies] the keys of [his] prison in [his] own pocket[], the action is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees.'") (quoting Shillitani v. United States, 384 U.S. 364, 368 (1966) (internal quotations omitted)).

The Clerk of Court is DIRECTED to enter Notices of Appearance on the docket.

In addition to sending copies of this Order to Defendants, the Clerk of Court is DIRECTED to mail copies of this Order to non-party Michelle Thornton at her last-known mailing addresses of 1029 Grey Fox Lane, Auburn, Georgia, 30011, and 8200 Roberts Drive, Suite 205, Atlanta, Georgia, 30350, and to non-party Ryan Windsor at his last-known mailing addresses of 5 Stillmeadow Drive, The Hills, Texas, 78738, and 8200 Roberts Drive, Suite 205, Atlanta, Georgia, 30350.

SO ORDERED, this 10 day of March, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received numerous documents sent by Defendant William M. Windsor ("Windsor") in response to the Court's show cause order dated March 10, 2010 [Doc. 744], including:

- a "Demand for Jury Trial";
- a "Motion to Vacate Order,1I with several attachments
- a "Motion for Leave to Exceed Page Limitation";
- a "Motion for Continuance and Stay/" with an attachment;
- a "Motion to Direct Clerk of the Court to Issue
- Subpoenas"; and

- a "Motion to Disqualify Judge Orinda D. Evans," with several attachments.

Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or papers in this closed case.[64] Recognizing this, Windsor requests that the undersigned file the abovementioned documents and their numerous attachments with the Clerk of Court on his behalf for entry on the docket.

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[64] Notwithstanding the permanent filing injunction, the Court has previously permitted Windsor to file a Notice of Appeal and responses to Plaintiffs' post-injunction motions and filings [See Docs. 724, 731, 742, & 744J. Relevant here, the Court expressly permitted Windsor to file one response (either on his own or collectively with Defendants Alcatraz Media, LLC, Alcatraz Media, Inc., and non-party Ryan M. Windsor) to Plaintiffs' pending civil contempt motions [Doc. 744 at 3-4]. The Court did not permit Windsor to file, or submit to the undersigned for filing, the documents that the Court has received. However, nothing in this Order denies Windsor's right to file either an individual or collective response to Plaintiffs' pending civil contempt motions no later than Friday, April 2, 2010, as permitted by the limited permanent filing injunction exception established by the Court in its order dates March 10, 2010 [Doc. 744 at 3-4].

The Court cannot, and will not, file these documents or their attachments with the Clerk of Court. The Court hereby ORDERS these documents STRICKEN from the record. The Court will not consider or refer to these documents in any way in ruling on the two motions for civil contempt filed by Plaintiffs Maid of the Mist Steamboat Corporation and Maid of the Mist. Steamboat Company, Ltd. [Docs. 739 & 741]. The Court has forwarded the above-mentioned documents to the Clerk of Court solely to document the motions referenced in this Order. The Clerk of Court is DIRECTED not to file these documents as pending motions on this case's docket or elsewhere.

SO ORDERED, this 23rd day of March, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR

Defendants

ORDER

This closed civil action comes before the Court on a motion for post-judgment attorneys' fees and expenses filed by Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. ("Plaintiffs") against Defendant William M. Windsor ("Windsor") pursuant to 28 U.S.C. § 1927, O.C.G.A. § 13-6-11, and the Court's inherent authority [Doc. 728]. At this time, Plaintiffs move the Court to order Windsor to pay $192,377.87 in attorneys' fees and expenses incurred by Plaintiffs as a result of certain post-judgment work done by their attorneys at the Atlanta law firm of Hawkins & Parnell LLP and the Buffalo, New York law firm of Phillips Lytle LLP [Declaration of Carl H. Anderson, Jr., Doc. 746, 891.

The Court held a hearing on Plaintiffs' motion on April 8, 2010, at which Plaintiffs appeared through counsel and Windsor appeared prose. This written Order memorializes and supplements the findings of fact and conclusions of law announced at the close of that hearing.[65] In short, Plaintiffs' motion, in the amount which they currently seek to recover from Windsor, is GRANTED.

The Court has the inherent authority to assess attorney's fees and expenses against a party who has acted in bad faith or vexatiously during the litigation. See Kreager v. Solomon & Flanagan,P.A., 775 F.2d 1541 (11th Cir. 1985). Also, pursuant to 28 U.S.C. 1927,

> Any attorney or other person admitted to conduct cases in any court of the United Stateswho so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

Based on the evidence taken at the hearing on Plaintiffs' motion, the Court finds that the motions

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[65] For the reasons stated in the Court's prior order setting the hearing on Plaintiffs' motion [Doc. 742 at 1-11], the Court concludes that it possesses jurisdiction to consider the motion and that the undersigned need not recuse herself.

submitted by Windsor in this case after May 22, 2009-when the Court denied his first Rule 60(b) motion to reopen the case-have been totally frivolous. The Court finds that Windsor filed these motions in bad faith. Windsor's spite and malice toward Plaintiffs motivated the filing of all of these motions. Windsor's conduct in filing these motions has been highly willful and wanton, objectively unreasonable, and has vexatiously and unreasonably multiplied the proceedings in this closed case and the expenses incurred to date by Plaintiffs. Windsor's conduct in filing these motions has also disrupted the efficient management of this Court's docket, has threatened to disrupt the finality of the Consent Final Order and Judgment and other orders previously entered in this case, and has repeatedly dragged Plaintiffs back into a lawsuit in which they prevailed on the merits nearly three years ago.

Windsor presented his own testimony at the hearing on Plaintiffs' motion. Taking into account that testimony, as well as other evidence, the Court finds that Windsor possessed, during this case's entire post-judgment phase, and currently possesses the financial means to secure counsel to represent him. Also, unlike many litigants who choose to proceed pro se, Windsor has the intellectual capacity to understand and appreciate that his post-judgment motions are legally dubious and that they are fundamentally vexatious to the Plaintiffs (and to the Court). His intent to harass is evident from the invective which fills the pages of his filings. The Court believes and finds that Windsor voluntarily chose to continue representing himself in this closed case, conscious that no attorney retained on his

behalf would pursue his desired ends. Windsor takes pleasure in preparing and filing pleadings himself.

The Court further finds that the $192,377.87 in attorneys' fees, costs, and expenses incurred by Plaintiffs in response to Windsor's post-judgment motions since May 22, 2009, and itemized in detail in submissions to the Court, are entirely reasonable. Plaintiffs called two witnesses at the hearing on their motion who were familiar with the fees charged by comparable attorneys in the Atlanta and Buffalo markets and who opined that the fees charged by Hawkins & Parnell LLP and Phillips Lytle LLP were reasonable given the unique circumstances of this case's post-judgment phase. Having considered those witnesses' testimony and the sworn declarations of Carl H. Anderson, Jr. to the extent that they also address the matter, the Court agrees.

The Court further finds that the amount of work done and the time spent by Plaintiffs' attorneys to address, on Plaintiffs` behalf, the dozens of post-judgment motions filed by Windsor in this closed case was reasonable. In the filings submitted in response to Windsor's post-judgment motions, Plaintiffs' attorneys concisely stated salient arguments in opposition to Windsor's submissions. The extensive amount of work done by Plaintiffs' attorneys in responding to the post-judgment motions was not undertaken voluntarily. Rather, that work was foisted upon Plaintiffs' attorneys, and the fees for the work done foisted upon the Plaintiffs, solely and directly because of Windsor's frivolous post-judgment motions.

Having made these findings, and also finding that Windsor personally possesses the means to pay the attorneys' fees, costs, and expenses currently being sought by Plaintiffs, the Court, pursuant to 28 U. S. C. 1927 and the Court's inherent power to control its own docket, hereby ORDERS Windsor to personally pay $192,377.87 in attorneys' fees, costs, and expenses incurred by Plaintiffs as a direct result of the post-judgment motions that Windsor filed in this case after May 22, 2009.

The Clerk of Court is hereby DIRECTED to enter a final judgment against William M. Windsor in that amount. The Clerk of Court is also DIRECTED to issue a writ of execution for that amount in Plaintiffs' names against William M. Windsor.

The Court issues this Order without prejudice to Plaintiffs' right to submit supplemental documentation regarding any additional time spent by Plaintiffs' attorneys, and expenses incurred by Plaintiffs, in preparing for and attending the April 8 hearing or in responding to Windsor's post-judgment motions filed before May 22, 2009, which had not been ruled on by May 22, 2009, and which were not the subject of the April 8 hearing. Also, the Court issues this Order without prejudice to Windsor's right to file one response to any such documentation, if he so chooses.

SO ORDERED, this 9 day of April, 2010.
/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

Today, the Court has received Defendant William M. Windsor's letter dated April 14, 2010, requesting permission to file (1) a motion to stay the judgment against him in the amount of $192,377.87 and (2) a motion for approval of a supersedeas bond in the form of a cash payment into the Court's registry. The Clerk of Court is DIRECTED to file Windsor's letter as a motion.

Further, the Court will permit Windsor to file(1) a motion to stay the Clerk's judgment against him, (2) a motion for approval of a supersedeas bond in the form of a cash payment into the Court's registry, and (3) a Notice of Appeal as to the Court's order, dated April 9, 2010, ordering Windsor to pay

$192,377.87 to Plaintiffs, directing entry of judgment in that amount against Windsor, and directing the Clerk to issue a writ of execution against Windsor.

Notwithstanding these limited exceptions, the permanent filing injunction imposed by the Court's order of December 22, 2009, otherwise remains in full force and effect.

SO ORDERED, this 14th day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on Defendant William M. Windsor's ("Windsor's") pro se "Notice of Appeal and Motion for Stay and Motion for Supersedeas Bond" [Doc. 767].[66]

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[66] 1 Windsor's Notice of Appeal pertains to numerous orders recently issued by the Court [Doc. 767 at 1-2] Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or other papers in this closed case by the Court's order of December 22, 2009 [Doc. 723 at 19-20]. Notwithstanding this permanent filing injunction, on April 14, 2010, the Court expressly permitted

On April 9, 2010, after holding a hearing on a motion for post-judgment attorneys' fees and expenses filed by Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs"), this Court ordered Windsor to personally pay $192,377.87 in attorneys' fees and expenses incurred by Plaintiffs as a result of the frivolous post-judgment motions Windsor filed in this closed case after May 22, 2009 [Doc. 752 at 4] The Court also directed the Clerk of Court to enter a final judgment against Windsor in that amount and to issue a writ of execution in Plaintiffs' favor against Windsor [Doc. 752 at 4], which the Clerk of Court did [Doc. 753].

In his motion, Windsor requests approval of a supersedeas bond in the amount of $192,377.87 to be paid by cashier's check into the Court's registry [Doc. 767 at 2-3][67] Windsor also requests a stay of the final judgment and writ of execution issued against him, asking that such a stay "be effective immediately conditioned upon Windsor's payment of the [$1.92,377.87 supersedeas bond] by cashier's check into the registry of the court not later than [seven] days following issuance of the order granting the stay" of the judgment and writ of execution [Doc. 767

Windsor to file the motions and Notice of Appeal now before the Court [Doc. 758 at 1].

[67] It is perfectly acceptable for Windsor to post cash in the Court's registry in lieu of a bond, if he so chooses.

at 3] For the reasons stated below, Windsor's motion for approval of his proposed supersedeas bond and for a stay of the final judgment and writ of execution is DENIED WITHOUT PREJUDICE.

Federal Rule of Civil Procedure 62 "governs application for stays of judgment in the district court." United States v. Wylie, 730 F.2d 1401, 1402 n.2 (11th Cir. 1984) (citation omitted). Pertinent here, Federal Rule 62(d) "allows for a stay pending appeal if the appellant files a supersedeas bond." Id. "The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect. when the [district] court approves the bond." FED. R. Civ. P. 62 (d).

The Court will not grant Windsor a stay of execution of the judgment at this time. The record reflects that Windsor has not yet submitted a cash deposit or proposed supersedeas bond to the Clerk of Court. Rather, Windsor requested a seven-day period from any order granting a stay of execution of the judgment in which to submit his cash deposit or supersedeas bond [Doc. 767 at 3].

This request takes the bond-posting procedure prescribed by Federal Rule 62(d) out of order. The Court may not grant a stay of the judgment and writ of execution against Windsor, or consider a motion to that effect, unless and until Windsor submits his cash deposit or proposed supersedeas bond to the Clerk of Court. At that time, the granting of a stay may be appropriate.

Windsor's motion for approval of his proposed supersedeas bond, and for a stay of the final judgment and writ of execution against him [Doc. 767], is thus DENIED WITHOUT PREJUDICE to Windsor's right to submit his cash deposit or proposed supersedeas bond, in a manner consistent with the Federal Rules of Civil and Appellate Procedure and the Court's Local Rules, to the Clerk of Court, and to move the Court to approve his cash deposit or proposed supersedeas bond and grant a stay as to execution of the final judgment entered against him by the Clerk of Court.[68]

The Court sua sponte clarifies the portion of its April 9, 2010 order which issued a writ of execution. The Court emphasizes that execution of the writ and collection of the judgment is STAYED until April 24, 2010-fourteen days after the Clerk's entry of that judgment-in accordance with Federal Rule of Civil Procedure 62(a).

SO ORDERED, this 21 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

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[68] Notwithstanding the permanent filing injunction placed on Windsor by the Court's order of December 22, 2009, the Clerk of Court is DIRECTED to file any such motion that Windsor may submit.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil suit comes before the Court on Plaintiffs' motions, filed February 19 and March 1, 2010 [Docs. 739 & 741], for an order finding Defendants in civil contempt for violating the undersigned's filing injunction entered December 22, 2009 [Doc. 723].[69] Because this case had been finally

[69] This Court's conclusions (pp. 39-41 below) finding William M. Windsor in contempt and modifying the December 22, 2009 order were orally announced from the bench on Friday, April 23, 2010. The instant Memorandum Opinion will set forth findings of fact and conclusions of law.

adjudicated in a Consent Final Order and Judgment entered December 9, 2008, and Defendant William M. Windsor ("Windsor") had persisted in filing large numbers of frivolous post-judgment motions, the December 22 filing injunction ordered Windsor not to file "any further motion, pleading, or other paper in Civil Action No. 1:06-CV-0714-0DE" (the "instant case") [Doc. 723 at 19]. The Court also ordered Windsor not to file in any court "any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case" [Doc. 723 at 19].

After the December 22, 2009 order was entered, Windsor filed certain petitions for writs of mandamus in the United States Court of Appeals for the Eleventh Circuit and also filed a new lawsuit in the U.S. District Court for the District of Columbia [Doc. 739-22 to 739-26]. In the District of Columbia lawsuit, Windsor seeks to reopen this closed case and undo its resolution insofar as the Maid of the Mist entities are concerned. In addition, it contains claims for damages against both of the Maid of the Mist entities and a large number of other defendants (including the undersigned) for various acts allegedly wrongfully done or wrongfully not done in connection with this, lawsuit or Windsor's nonjudicial complaints.

On March 10, 2010, this Court issued an order to show cause why Plaintiffs' "Motion for Contempt and Sanctions" should not be granted [Doc. 744]. Briefs have been filed by both sides. An evidentiary hearing was held on April 16, 19 and 23, 2010. Windsor testified and made arguments in his own

behalf. Having heard the evidence and arguments of the parties, the Court now makes the following findings of fact and conclusions of law.[70]

I. Findings of Fact

William M. Windsor acted as an agent for Defendants Alcatraz Media, LLC and Alcatraz Media, Inc. in the events which led up to the underlying litigation in this case. The Alcatraz defendants were represented by counsel in the underlying litigation; Windsor elected to represent himself. Windsor's adult son, Ryan Windsor, at all times has been the CEO of the Alcatraz defendants. In the instant case, Alcatraz was selling vouchers via

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[70] Once again the undersigned considers sua sponte whether to recuse herself from the instant case, and declines to do so. The problem is that Windsor's endless campaign to reopen the case cannot be stopped if a succession of judges handle the case. Because of Windsor's very extensive filings, becoming familiar with the underlying case would require a significant investment of time by a new judge. This would cause delay and would increase Maid's costs. Also, it is predictable that any rulings unfavorable to Windsor from a new judge would result in a motion to recuse. Because the undersigned is confident that she can be fair to Windsor, and the record clearly establishes a history of repetitive, frivolous pro se filings, the undersigned declines to recuse herself.

the Internet to members of the public who wanted tickets for Maid of the Mist boat rides at Niagara Falls, New York.[71]

In 2005, Windsor and perhaps other representatives of Alcatraz discussed with Maid of the Mist Alcatraz's proposal to sell vouchers to the public. No contract was signed, but the parties established a credit arrangement whereby Maid would reimburse Alcatraz for vouchers. The relationship was soon problematic. A full explanation of the events that caused relations between the parties to unravel is set forth in the Court's order of May 12, 2006 granting Plaintiffs' motion for a preliminary injunction [Doc. 33], and also in the Court's order granting Maid's motion for summary judgment entered August 9, 2007 [Doc. 251]

Maid notified Alcatraz by letter dated July 29, 2005 that it would no longer accept vouchers sold by Alcatraz. Maid's stated reason was that misrepresentations had been made on Alcatraz's website to consumers that the vouchers were being offered at a discounted, below retail price. The purchasers were angry when they arrived in Niagara

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[71] Sometimes the vouchers were called "e-tickets." The e-tickets were in the form of a receipt. Both the vouchers and the e-tickets could be swapped at Maid's box office in Niagara Falls for a ticket. The swap could only be done on the date of the boat ride at the gate.

Falls and learned that they had purchased vouchers which were well above Maid's posted ticket prices. Nonetheless, Alcatraz continued selling the vouchers. On August 29, 2005, Maid sought injunctive relief in this action, which was originally filed in the Superior Court of Gwinnett County. It was removed to this Court by Alcatraz on March 28, 2006.[72]

In the course of dealings leading up to this lawsuit, Windsor's conduct toward Maid was contentious and flamboyant. His comments and conduct have been documented in the Court's orders in this case, especially in the order granting the

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[72] Alcatraz removed the case claiming that it set forth a claim under the Lanham Act; Maid later disavowed this theory. But all Plaintiffs (New York and Canada corporations, with respective principal places of business in New York and Canada) were and are diverse from all Defendants (California and Delaware corporations with principal places of business in Georgia, and an individual Georgia resident), and the matter in controversy (the value of Maid's potentially diminished goodwill) exceeded $75,000, exclusive of interest and costs. The Court discussed this basis for subject-matter jurisdiction in its August 9, 2007 summary judgment order [Doc. 251 at 17]. Injunctive relief was granted to Maid based on its claim of tortious interference with contractual relations, a state-law claim. Maid did not seek damages. No damages were awarded.

motion for preliminary injunction [Doc. 33] and the order granting Maid's motion for summary judgment [Doc. 251].

The Alcatraz defendants filed counterclaims against Plaintiffs for promissory estoppel, breach of contract, and slander. During a discovery conference on February 2, 2007, the Court questioned Windsor and counsel for Alcatraz about what possible basis they could have for their claim that Maid had an obligation to allow Alcatraz to sell vouchers or e-tickets on its behalf. The Court never received a responsive answer to this question. In a brief filed by Windsor on September 17, 2007 [Doc. 268], he claimed that

> Maid and Maid's Attorneys have established a pattern and practice of lies, multiple false sworn testimony at the Preliminary Injunction Hearing, in their depositions, and more. These were material false statements. The Plaintiffs have fabricated the claim upon which they obtained a Temporary Restraining Order and then a Preliminary Injunction.

[Doc. 268, ~ 11]. When this Court granted Maid's motion for summary judgment, including dismissing the counterclaims on their merits, it granted Maid's claim under O.C.G.A. § 13-6-11 for attorneys' fees and expenses based on a determination that:

> Alcatraz's and Windsor's behavior following Maid's July 29, 2005 termination of Alcatraz's credit authorization was clearly stubbornly litigious. From Mr. Windsor's emails

> threatening to sue Maid and seeking four million dollars in damages, to the complaints filed with the Attorneys General and Better Business Bureaus, to Alcatraz' s treatment of Maid customers who sought refunds for the Alcatraz vouchers they were unable to redeem at Maid's box office after July 29, 2005, the Court finds it was Alcatraz's and Windsor's stubbornly litigious actions that gave rise to this litigation. This is a straightforward, simple case that Alcatraz and Windsor have unduly complicated and prolonged as a result of harboring hostile personal feelings against Maid. It is and always has been obvious that Alcatraz has no right to force Maid to accept it as its agent for ticket sales.

[Doc. 251 at 43-44].

Alcatraz and Windsor appealed the final Judgment which granted a permanent injunction against the voucher and e-ticket sales, and which also awarded $421,773.84 in attorneys' fees and other litigation expenses in Maid's favor against Alcatraz and Windsor. On September 19, 2008, the Court's summary judgment order was affirmed; the award of attorneys' fees and expenses was vacated and remanded for further findings and a fuller explanation as to the amount of the award [Doc. 344]. Apparently, this led to settlement discussions among the parties and, on December 9, 2008, the parties submitted a Consent Final Order and Judgment which settled all claims in the action, left the injunction in place, and called for the payment of $395,000 in attorneys' fees and expenses

[Doc. 354] The settlement agreement recited that attorneys' fees and expenses had been paid. Thus, as of December 9, 2008, the instant action had been fully and finally settled, or at least it so appeared.

The ink had barely dried on the December 9, 2008 settlement agreement when Windsor filed a motion to reopen the case on April 24, 2009 [Doc. 362]. The motion was supported by numerous exhibits, including four declarations of William Windsor with appended exhibits. This filing was comprised of more than five thousand pages. The motion was laced with claims that Maid of the Mist and its lawyers in the instant case committed perjury, filed false pleadings, abused discovery, and deprived Defendants of a fair hearing. Paragraph 49 of the motion to reopen stated:

> Maid withheld documents, fabricated evidence, gave perjured testimony, and abused the legal system in a wide variety of ways. Judge Evans denied the Defendants relief from judgment because she did not stop Maid from committing perjury, withholding documents, fabricating evidence, and perverting the legal system. The actions of Maid and Judge Evans deprived the Defendants of the opportunity to be heard.

The motion also alleged in paragraph 57:

> The Defendants can show that Maid committed fraud, misrepresentation, and perjury, and Maid's attorneys participated

> knowingly in these wrongs and suborned perjury.

Further, in paragraph 60:

> The Final Judgment in this case should be void because Judge Evans did not act in a manner consistent with due process of law. Judge Evans withheld documents from the Defendants, denied reasonable discovery to the Defendants, and allowed the legal process to be perverted with all forms of dishonesty by Maid.

The motion to reopen specifically recited reliance on Federal Rules of Civil Procedure 60(b) (1) -mistake, inadvertence, surprise, or excusable neglect; (b) (2) -newly discovered evidence that with reasonable diligence could not have been discovered in time to move for a new trial under Rule 59 (b); (b) (3) -fraud; (b) (4) -a void judgment; (b) (5) the judgment has been satisfied, released or discharged, or applying it prospectively is no longer equitable; and (b) (6) -any other reason justifying relief.

The motion outlined extensively, though in very general terms, assertions of fraud, perjury and corruption by the Maid entities, as well as by Maid's attorneys in this suit, and also alleged that this dishonesty was compounded by the undersigned's mistakes, "who after reading, hearing, and apparently believing the lies of Maid, withheld documents from the Defendants, violated the legal rights of the Defendants by denying the most basic discovery, and acted without the impartiality

required of a judge" [Doc. 362, ~ 1]. Windsor also claimed that incompetent representation by Alcatraz's attorney, who allegedly failed to file important evidence with the Court, undermined Defendants' position in this litigation.

The documents which the Court did not require to be turned over to Alcatraz and Windsor were agreements which Maid had with the Canadian and New York authorities. The Court reviewed these documents in the instant case and directed them to be placed under seal and filed. They were not required to be turned over to Defendants. pparently, Windsor later obtained copies of these documents through a public documents request in New York or Canada or both.[73]

The alleged incompetence of Alcatraz's attorney was that he did not file with the Clerk a deposition of one of Alcatraz's employees, which was taken by Windsor. Windsor claimed that it would have established the existence of an oral contract for Alcatraz to sell vouchers during the entirety of the 2005 summer season. Also, Windsor alleges that Alcatraz's counsel negligently failed to file a

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[73] Windsor asserts that one of these documents required Maid to limit its ticket prices to rates approved by the public authority. If so, the Court does not see how having this agreement would have been helpful to Windsor. Such a requirement would reinforce the legitimacy of Maid's concern about voucher sales above the approved price.

declaration of Sonya Chase, an employee of Alcatraz who could have testified that Alcatraz refunded money to many customers whose etickets were refused by Maid when they arrived at Niagara Falls. Finally, Windsor argued:

> Judge Evans' actions prevented the Defendants from being able to handle this lawsuit as they needed while dealing with dishonest Plaintiffs and dishonest attorneys. This is an unusual and extreme situation where principles of equity mandate relief. The "exceptional circumstances in this case is the totality of the mistreatment of the Defendants.

[Doc. 362, 373].

On May 22, 2009, the Court denied Windsor's motion to reopen the case [Doc. 390]. This order also denied Windsor's motion for recusal of the undersigned. This order denied Maid's request for an award of attorneys' fees, because the request for award of attorneys' fees was made under O.C.G.A. § 13-6-11 and Fed. R. Civ. P. 37(a) (5), which the Court found procedurally inapplicable. The order's discussion of the merits of Windsor's Rule 60(b) motion noted that "Windsor's arguments under Rule 60 (b) (3), (4) and (5) are also without merit, as they constitute cursory allegations of dishonesty with no evidentiary support for contentions that the Court should revisit its prior rulings in this case." The Court also found that Windsor's argument under 60 (b) (6) merely rehashed his arguments under the

other five subsections of Rule 60(b); hence, there was no evidence to support his Rule 60 (b) (6) claim.[74]

Beginning on the same date this Court denied the 60(b) motion, Windsor began filing what would eventually total sixty-two motions of various types, including over two dozen motions for hearings and conferences, motions to recuse the undersigned, motions to compel discovery, and motions for sanctions. Maid of the Mist filed a motion for a permanent injunction restricting future filings by William M. Windsor [Doc. 458], numerous motions to strike, and other collateral submissions. In light of the previous order refusing to reopen the judgment, Windsor's motions were dismissed. The Court did consider on the merits Maid's motion for permanent injunction restricting future filings by William M. Windsor. It did grant the motion, finding that "Windsor's persistently litigious behavior undermines the integrity of the Consent Final Order and Judgment submitted by the parties and signed by the Court in this case" [Doc. 723 at 19]. The Court then entered the following injunctive order:

> Accordingly, taking into account that this is a closed case, Windsor, and any parties acting in concert with him or at his behest, are therefore PERMANENTLY ENJOINED from filing any further motion, pleading, or other paper in Civil Action No. 1:06-CV-0714-ODE.

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[74] The Court of Appeals dismissed, as frivolous, Windsor's appeal of this Court's denial of Windsor's motion to reopen the case on September 9, 2009.

> Regarding Civil Action No. 1:09-CV-1543-WSD, the undersigned will take no action on Plaintiffs' injunctive request, because that case is an open matter which is assigned to Judge Duffey.
>
> Finally, Windsor is ORDERED not to file in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case. These claims would be barred by the doctrine of res judicata. The filing of such claims would serve no purpose except to harass Plaintiffs, and would probably result in sanctions against Windsor.

On December 31, 2009, Windsor filed a notice of appeal. The notice of appeal indicated that Windsor was appealing "from the order issued in this action on the 22nd of December 2009 covering a wide variety of issues. The appeal will be based upon violation of Constitutional rights, violations of various statutes (both civil and criminal), and more." Windsor's brief filed in the Court of Appeals on February 22, 2010 argues in Section C, Part 1, that "Judge Evans ordered an injunction against Windsor that is illegal." He states, "Judge Evans has completely foreclosed Windsor's access to the courts, and she acted without jurisdiction in violating Windsor's rights. Her injunction violates the law and Windsor's Constitutional rights" [Brief at 32]. Windsor further argued that he had no warning that an injunction would be issued and that he had no opportunity to be heard on the issue of the injunction [Brief at 33-35]. Notably, Windsor did not file a

motion to stay the injunction pending his appeal. Apparently, Windsor's appeal of the injunction-related issues is still pending in the Court of Appeals.

On February 4, 2010, Windsor filed a complaint in the United States District Court for the District of Columbia against the Maid entities, Maid's counsel of record in the instant case, and many other individuals including the undersigned, as described above.

The D.C. action is a 504-page lawsuit containing 2,935 numbered paragraphs [Docs. 739-21 to 739-28]. It seeks relief against many defendants, including the undersigned, other judges in the Northern District of Georgia, a judge of the United States Court of Appeals for the Eleventh Circuit, plus numerous other public officials in various branches of the federal government. It also seeks relief against Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Carl Hugo Anderson, Jr., and Hawkins & Parnell LLP. Anderson and Hawkins & Parnell are Maid of the Mist's lawyers in Atlanta who have handled the underlying litigation. The D.C. complaint was dismissed as frivolous by U.S. District Judge Richard J. Leon on February 14, 2010. Windsor appealed this decision to the U.S. Court of Appeals for the D.C. Circuit; the appeal is pending.

The gist of the D.C. complaint is the following: the judges in the Northern District of Georgia who have handled the instant litigation or other litigation involving claims by Windsor against the Maid of the

Mist entities have acted improperly in handling these cases and are probably corrupt. The other government representatives are individuals who Windsor contends should have been responsive to his complaints about the handling of the Georgia litigation but who allegedly were not responsive. Damages were sought against all of the foregoing individual defendants as well as against the Maid of the Mist entities and their attorneys. Windsor asks that the judgment and other rulings in the instant case and in Judge Duffey's case be set aside under Rule 60(d) of the Federal Rules of Civil Procedure.

The complaint begins with a preliminary statement (page 1), followed by a list of the parties and the address at which each may be served. The next section, entitled "Jurisdiction and Venue," sets out why the D.C. court has jurisdiction over the case (pages 14-15). Thereafter, an extensive section titled "Factual Background" sets forth Windsor's version of the relevant facts. Paragraphs 70 to 794 (pages 16-98) describe the instant litigation (denominated therein as "Mist I"). This section alleges that agents of the Maid of the Mist entities and their attorneys committed extensive perjury and fraud in this litigation. It also alleges that the undersigned tolerated lies and perjury. It asserts that the undersigned made many errors favoring the Maid of the Mist entities and claims that the undersigned is an unfair and probably corrupt judge for this reason.

The next section, entitled "Deposition Action" (" 795-1232, pages 99-156), discusses Windsor's

efforts to reopen the instant litigation after a judgment was entered in December of 2008. The next section, titled "Mist II" (" 1233-1741), describes Judge Duffey's handling of a case assigned to him in which Windsor sued the Maid of the Mist entities, the undersigned, and others. This suit was brought under Rule 60(d), Federal Rules of Civil Procedure, and seeks to set aside the judgment in the instant case.

In paragraphs 1742-2105, entitled "Mist I 2009-2010," the complaint describes Windsor's efforts to set aside the judgment in the instant case, plus his claims that this effort failed due to fraud, perjury, and suspected corruption.

The remaining fact sections of the complaint are paragraphs 2106-2249 (pages 363-396). Thereafter, the complaint asserts thirty-two claims for relief, including two RICO claims (Georgia and federal) based on an alleged conspiracy among all defendants named in the complaint. The complaint further seeks relief based on extension or modification of existing law. The RICO claims are based on thirteen predicate acts, including perjury, obstruction of justice, witness tampering, and conspiracy to defraud the United States, among others.

The first claim for relief in the D.C. complaint (page 397) is entitled "Independent Action for Relief from Judgments, Orders and Proceedings and To Set Aside Judgment for Fraud Upon the Courts FRCP Rule 60(d) (1) and the Court's Inherent Powers." In this section, Windsor asserts that the Maid of the

Mist entities, their attorneys, the undersigned, and Judge Duffey committed fraud such that "the judgment, injunctions and orders in the underlying actions must be set aside due to fraud upon the courts pursuant to FRCP Rule 60(d) (1) and this court's inherent powers. Judgments were issued in Mist I that ought not, in equity and good conscience, be enforced" (~~ 2279, 2280, page 399). It argues that "the facts in Mist I show very clearly that this is a case of exceptional circumstances" (~ 2307, page 403).

A major thrust of the D.C. complaint is to set aside the Consent Final Order and Judgment, which Windsor signed in 2008, and to begin the same litigation again.

The D. C. complaint contains all factual elements of the Rule 60(b) motion the Court ruled on in the instant case. The complaint in the D.C. action names Windsor as the plaintiff and the Maid of the Mist entities as defendants, just as the instant case does. The allegations of fraud, perjury and corruption against the Maid entities and their attorneys are very much the same as in the instant case.

On February 19 and March 1, 2010, Plaintiffs filed their motions seeking a finding of contempt and sanctions against Windsor, the Alcatraz entities, Ryan Windsor, and non-party Michelle Thornton based on Windsor's filing of the mandamus petitions and the D.C. lawsuit in violation of the December 22 filing injunction.

On March 10, 2010, this Court issued an order directing Windsor, the Alcatraz entities, and Ryan Windsor to show cause why they should not be held in contempt as requested in Maid's motion. Maid's brief [Doc. 739-46] argues that Windsor, Alcatraz and Ryan Windsor willfully violated the terms of the December 22 order when the petitions for writ of mandamus were filed and when the District of Columbia action was filed.[75] Maid argued that the Court should assess a fine for the contempt, award Maid its reasonable attorneys' fees for filing and prosecuting its contempt motion, and argued that "if monetary sanctions do not prescribe [sic] Windsor and his accomplices' contumacious behavior, then Maid would ask the Court to incarcerate Windsor pending his compliance." Windsor filed a response on April 2, 2010 [Doc. 749]. In the brief he argued that he had had no opportunity to be heard before the Court issued the December 22 injunction. He made a large number of other arguments, but they are not recited herein as they are irrelevant to the contempt issue which is currently before the Court.

At the contempt hearing which began on April 16, 2010, Windsor orally advanced a number of arguments. These arguments are that the December 22 filing injunction is invalid because (1) it denied him access to the Courts; (2) it was issued without warning and without Windsor having the right to be heard; (3) it is too vague to be enforceable and does

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[75] The Court dismissed the Alcatraz entities and Ryan Windsor from the contempt proceedings at Maid's request, after Ryan Windsor's testimony at the contempt hearing.

not, by its terms, bar the filing of the petitions for writs of mandamus or a new independent lawsuit under Rule 60(d) of the Federal Rules of Civil Procedure seeking to set aside the judgment and rulings in the instant case; (4) the filing of the lawsuit in the District of Columbia is not barred by the order or by the doctrine of res judicata because it is anew, independent action brought under Rule 60(d) and does not have the same parties or issues as the instant suit; (5) this Court lacks the power to bar Windsor from filing an independent action under Rule 60 (d) in the District of Columbia court and from filing petitions for mandamus in the Court of Appeals; (6) because the December 22 order was appealed on December 31, 2009, and is still on appeal, this Court currently has no jurisdiction to enforce the order; and (7) Windsor, a pro se litigant, did not intentionally disobey this Court's December 22 order in filing the petitions for writs of mandamus and the District of Columbia action, even if they were literally precluded by the December 22 order.

Each of these arguments will be considered in turn.

II. Conclusions of Law

A. Denial of Access to the Courts

Windsor first challenges the filing injunction on grounds that it impermissibly denies his access to the courts.

"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." Procup v. Strickland, 792 F.2d 1069, 1073 (11th Cir. 1986) (citation omitted). The only limit that the Court of Appeals "has placed upon injunctions designed to protect against abusive and vexatious litigation is that a litigant cannot be 'completely foreclosed from any access to the court.'" Martin-Trigona v. Shaw, 986 F.2d 1384, 1387 (11th Cir. 1993) (per curiam) (quoting Procup, 792 F.2d at 1074). And, as recognized by the Court of Apepals, "[c] onsiderable discretion necessarily is reposed in the district court" in fashioning such injunctions. Procup, 792 F.2d at 1074.

The Court's December 22 order reaches only so far as to limit Windsor's attempts to dredge up this long-closed litigation, and to protect the judiciary and Plaintiffs from Windsor's litigious conduct. Wholly consistent with the portion of the filing injunction limiting Windsor's submissions to other courts, Windsor could initiate a civil action in any court in the country, including this Court, so long as that action did not implicate the same facts and issues of law already decided in the underlying litigation. The Court narrowly tailored its filing injunction to serve the purposes that the injunction aims to serve: bringing finality to the Court's prior orders and judgments and granting Plaintiffs relief from Windsor's continuous filings in a case which was closed, with his consent, nearly eighteen months ago. The Court has "closed the courthouse doors" doors only to the extent necessary to bring finality to

this completed litigation and to protect Plaintiffs from the undue burdens of Windsor's inability to accept this case's end.

A key fact makes the filing injunction in this case even more supportable than the filing injunctions imposed in Martin-Trigona and Procup. This case has been completely closed, with Windsor's consent, since December 9, 2008; the Court denied Windsor's motion to reopen this case nearly a year ago; the Court of Appeals dismissed Windsor's appeal from that order as frivolous in September 2009. The filing injunction does not prohibit Windsor from initiating new civil actions unrelated to this closed case. The filing injunction merely protects Plaintiffs and the judiciary from Windsor's continuous attempts to rehash questions of fact and law already decided by this Court and the Court of Appeals. Windsor has presented no authority, and the Court has found none through independent research, indicating that a court may not enjoin post-judgment filings related to a closed case to protect the finality of that case's outcome. The filing injunction imposed on Windsor was tailored to serve those ends.

With regard to the portion of the filing injunction limiting Windsor's further submissions in this closed case, Civil Action No. 1:06-CV-0714-ODE, the Court acknowledges that a more prudent course of action may have been to restrict Windsor from submitting motions or other papers without first obtaining leave of the undersigned or the chief judge of this district. But, in practice, that portion of the Court's filing injunction has taken such a shape.

Since the Court entered its December 22 order, Windsor has mailed numerous proposed submissions to the undersigned's chambers for filing with the Clerk of Court. Thus far, notwithstanding the permanent filing injunction, the Court has expressly permitted Windsor to file a notice of appeal from the Court's December 22 order [Doc. 724], a response to Plaintiffs' motion for post-judgment attorneys' fees and expenses [Doc. 731], a response to Plaintiffs' brief summarizing the attorneys' fees and expenses sought [Doc. 742], a response to Plaintiffs' "Motion for Contempt and Sanctions," either on his own or collectively with the other Defendants in this action [Doc. 744], a motion to stay the judgment against him for such fees and expenses, a motion for approval of a supersedeas bond, a Notice of Appeal from the Court's order granting Plaintiffs such fees and expenses [Doc. 758], and an "Emergency Motion for Stay and Motion to Vacate Orders" [DOC. 782]. The portion of the Court's filing injunction limiting Windsor from submitting motions or other papers in this closed case, viewed in this light, does not impermissibly limit his access to this Court.

The Court agrees with Windsor, however, that it does not have the power to limit his filings in the Court of Appeals. The mandamus petitions were filed in the Court of Appeals, not in this Court. Moreover, the Court clarifies that, in fashioning the filing injunction in its December 22 order, the Court never intended to enjoin any actions Windsor might take in the Court of Appeals. For that reason, the Court MODIFIES the filing injunction set forth in

the December 22 order to clarify that nothing in that order enjoins or otherwise limits Windsor's ability to file notices of appeal in this Court or motions or briefs in the Court of Appeals. Accordingly, Windsor will not be found in contempt for filing his petitions for mandamus relief in that Court.

B. Denial of the Right to Be Heard

Windsor next challenges the filing injunction on grounds that the Court did not permit him to be heard before enjoining him.

"Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest." United States v. Powerstein, 185 F. App'x 811, 813 (11th Cir. 2006) (per curiam) (citing Zipperer v. City of Fort Myers, 41 F.3d 619, 623 (11th Cir. 1995). And "[m]eaningful access to the courts is a right of constitutional significance." Id. (citing Christo her v. Harbur, 536 U.S. 403, 415 & n.12 (2002»). Windsor was thus "entitled to notice and an opportunity to be heard before the court imposed the injunctive order complained of." Id.

Windsor received notice and an opportunity to be heard in opposition to the filing injunction. On July 15, 2009, Plaintiffs moved for a permanent injunction on future filings of the type previously discussed. Windsor had an opportunity to respond in opposition to this motion and did in fact respond in a twenty-page brief, with a forty-eight page supporting affidavit, submitted to the Court on August 3, 2009 [Doc. 484].

Moreover, nothing in Windsor's brief indicated what an evidentiary hearing could have possibly revealed. The docket clearly reflected Windsor's history of filing dozens of frivolous postjudgment motions in this closed case, even after the Court refused to reopen the case and the Court of Appeals affirmed that decision. The documents that Windsor filed, and the language used therein, revealed the frivolity of his motions. These filings were in the record and nothing more could have been gleaned from an evidentiary hearing.

C. The Injunction's Specificity and Detail

Windsor next challenges the filing injunction on grounds that its terms were impermissibly vague and indefinite.

"Every order granting an injunction. must:. state its terms specifically[] and.. describe in reasonable detail-and not by referring to the complaint or other document-the act or acts restrained or required." FED. R. CIV. P. 65(d) (1) (B) & (C). This rule "serves to protect those who are enjoined by informing them of what they are called upon to do or to refrain from doing in order to comply with the injunction or restraining order." Hughey v. JMS Dev. Corp., 78 F.3d 1523, 1531 (11th Cir. 1996) (quotation omitted). "The drafting standard established by Rule 65(d) is that an ordinary person reading the court's order should be able to ascertain from the document itself exactly what conduct is proscribed." Id. (quotation omitted).

The Court's December 22 order permanently enjoined Windsor, and those acting in concert with him, "from filing any further motion, pleading, or other paper in Civil Action No. 1:06-CV-0714-0DE" [Doc. 723 at 19]. In addition, the Court ordered Windsor "not to file in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case." The order noted that such claims "would be barred by the doctrine of res judicata [and] would serve no purpose except to harass Plaintiffs" [Doc. 723 at 19].

Windsor principally attacks two terms used in describing the filing injunction: "nucleus of operative facts" and "res judicata." The meaning of the term res judicata is irrelevant, though, as that term is not part of the command language of the filing injunction.

The phrase "nucleus of operative facts" is not so specialized as to be incomprehensible to an ordinary citizen. Furthermore, Windsor's intellect and business background convince the Court that he has a good understanding of what that phrase means. His Court filings generally show above-average vocabulary skills and writing and research capability. Windsor knows that the important facts in this litigation originally centered around Maid's claim that Alcatraz had no right to sell vouchers after Maid told them to stop, and Alcatraz's / Windsor's defense that (a) they were contractually entitled to sell vouchers or (b) they were entitled to continue selling vouchers without Maid's consent. This is the litigation Windsor seeks to reinstate.

After the final settlement was reached by all parties, Windsor sought through his Rule 60(b) motion to reopen the case and begin his original arguments again. In support of his Rule 60 (b) motion, he made sweeping claims of fraud, perjury, corruption and judicial bias which preceded the settlement agreement, as well as mistake and other grounds. The claims were denied by the Maid entities in their response. The operative facts relating to the 60(b) motion centered around those claims and denials. The Court finds that Windsor understands this. He also understands that the allegations in the D.C. action include, though they are not limited to, these same allegations.

In a case involving several excessively litigious pro se plaintiffs, the Court of Appeals directed a clerk of court not to accept a complaint unless "it involved claims not arising from the same nucleus of operative fact as those alleged in the underlying § 1983 action or previous actions filed by" the pro se litigants, among other requirements. Dinardo v. Palm Beach County Circuit Court Judge, 199 F. App'x 731, 734 (11th Cir. 2006) (per curiam). In light of this authority, and taking into account the language used in the filing injunction and the party at which the injunction was directed, the Court concludes that the injunction was sufficiently specific and clear.

D. Whether This Court May Enjoin Filings in Other Courts

Windsor next challenges the validity of the filing injunction by arguing that this Court did not

have the power to enjoin Windsor's filings in other courts (the D.C. action) and in the Court of Appeals (the petitions for writs of mandamus)

The Court does have the power to prohibit filings in other trial courts under the specific facts of this case. As stated above, the Court agrees with Windsor that it has no power to enjoin any filings in the Court of Appeals and that its permission is not required for filing a notice of appeal. -21

In Martin-Trigona v. Shaw, the Court of Appeals cited with approval the injunction issued by the United States District Court for the District of Connecticut in 1983 and affirmed, in pertinent part, by the United States Court of Appeals for the Second Circuit in 1984, deeming that injunction "a reasonable response to the abusive litigation of. Martin-Trigona and his allies." Martin-Trigona, 986 F.2d at 1387. That injunction, as relevant here, enjoined MartinTrigona "from filing or attempting to initiate any new lawsuit in any federal court in the United States... without first obtaining leave of that federal court." Id. (citing In re Martin-Trigona, 592 F. Supp. 1566 (D. Conn. 1984)). The Court of Appeals for the Second Circuit affirmed the district court's injunction, despite the effect that the injunction had on Martin-Trigona's ability to file suit in any federal district court, because "[tlhe district court is part of the federal judicial system and has an obligation to protect and preserve the sound and orderly administration of justice throughout that system." In re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir. 1984).

The injunction in this case did not require approval of the filing court, unlike the injunction in Martin-Trigona. However, in this case (unlike in Martin-Trigona), the injunction is limited to filing claims in another court which have already been adjudicated in this Court and affirmed by the Court of Appeals. A major reason for issuing the injunctive order is to keep Windsor from pursuing his vendetta against the Maid entities through relitigation of the instant case, thereby causing them inappropriate trouble and expense. This objective is defeated if a new court, aided by a filing by Maid's attorneys and Windsor, has to determine whether claims in the new case duplicate claims in the old case.

The Court concludes that its injunction properly limited Windsor's ability to file new lawsuits in other trial courts, so long as that limit hinged on those new suits stemming from the same set of facts underlying the closed case before the undersigned. The injunction on Martin-Trigona targeted his propensity to file new, frivolous lawsuits across the country by limiting his ability to do so; the Court's injunction here targets Windsor's propensity to continue rehashing issues of fact and law already conclusively determined by this Court and the Court of Appeals, and the Court concludes that it may limit Windsor's ability to do so elsewhere.

E. Whether This Court Has Jurisdiction While an Appeal Is Pending

Windsor next challenges this Court's consideration of whether Windsor may be held in contempt of the filing injunction when Windsor

appealed the December 22 order establishing the injunction on December 31, 2009, and that appeal is still pending.

As a general proposition, "[t]he filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982).

But this proposition is not absolute. Federal Rule 62(a) carves out an exception to the general Griggs rule, providing that, "unless the court orders otherwise,. an interlocutory or final judgment in an action for an injunction [is] not stayed after being entered, even if an appeal is taken." This exception to the general Griggs rule stems from district courts' authority to "maintain [] continuing jurisdiction to enforce a judgment" granting an injunction, even while an appeal from that judgment is pending. United States v. Revie, 834 F.2d 1198, 1205 (5th Cir. 1987). ~Until [that] judgment has been properly stayed or superseded, the district court may enforce it through contempt sanctions." Id.[76]

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[76] See also Howat v. Kansas, 258 U.S. 181, 189-90 (1922) (~An injunction duly issuing out of a court of general jurisdiction with equity powers. must be obeyed by them, however erroneous the action of the court may be It is for the court of first instance to determine the question of the validity of the law, and until its decision is reversed for error by orderly review, either by itself or by a higher court,

its orders based on its decision are to be respected, and disobedience of them is contempt of its lawful authority, to be punished.") (citations omitted); Brown v. Braddick, 595 F.2d 961, 965 (5th Cir. 1979) (~A second threshold question is whether Braddick's notice of appeal deprived the district court of any further power to take action to enforce its order. Since Braddick failed to ask the district court for a stay pending appeal and to post supersedeas bond as required by [Rule] 62 (d), the district court retained power to enforce its order by civil contempt proceedings."); Locke v. united States, 75 F.2d 157, 159 (5th Cir. 1935) (~Willful disobedience of an injunction, however erroneous, issued by a court having jurisdiction while such injunction is in force unreversed constitutes contempt of court.") (citation omitted); Turay v. Seling, 108 F. Supp. 2d 1148, 1153 n.2 (W.D. Wash. 2000) (~A contempt finding may be made, and sanctions imposed, while an appeal from an injunction is pending."); Georgine v. Amchem Prods., Inc., Civil No. 93-0215, 1995 WL 422792, at *6 (E.D. Pa. July 12, 1995) (~Although the filing of an appeal generally divests a district court of its control over those aspects of the case involved in the appeal, courts still maintain jurisdiction for the purpose of enforcing its injunctions."); Vac-Air, Inc. v. John Mohr & Sons, Inc., 54 F.R.D. 580, 580 (E.D. Wis. 1972) (concluding that, notwithstanding a pending appeal from an injunctive order, district court retained jurisdiction to inquire whether injunction had been violated and whether any party was, as a result, in contempt of court)

This exception makes sense. If the Griggs rule automatically divested this Court of its authority to enforce its December 22 order and hold parties in contempt for violating that order's terms, as Windsor argues, "a person could completely frustrate judicial proceedings by disobeying an order of the Court during the pendency of an appeal without giving any security that it will be complied in the event of affirmance." Blackwelder v. Crooks, 151 F. Supp. 26, 28 (D.D.C. 1957), rev'd in part on other grounds sub nom. Blackwelder v. Collins, 252 F.2d 854 (D.C. Cir. 1958). Unfortunately for Windsor, ~ [t] he law is not as helpless in that respect" as he might wish. Blackwelder, 151 F. Supp. at 28.

Federal Rule 62(c) permits an enjoined party to move the district court to ~suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights" during the pendency of an appeal from an interlocutory order or final judgment that grants an injunction. But none of the parties-Windsor included-posted a supersedeas bond or otherwise moved the Court to stay the permanent filing injunction imposed by the December 22 order pending Windsor's appeal. Because the Court had jurisdiction to issue that order, and because that order has not been stayed by the Court or duly superseded, the permanent filing injunction imposed by the order was in effect when Windsor filed his lawsuit in the District Court for the District of Columbia in February 2010 and remains in effect today.

The Federal Rules make clear that the permanent filing injunction was not automatically stayed when Windsor appealed the order establishing that injunction on December 31, 2009. Windsor, and any other parties acting in concert with him or at his behest, were thus required to obey that order despite any pending appeal challenging the injunction. And as a corollary to that conclusion, the Court retains jurisdiction to consider whether Windsor, or anyone else bound by the terms of the injunction, might be in contempt of court for violating the injunction's terms.

F. Whether Filing the District of Columbia Lawsuit Violated the Injunction

Windsor next argues that the filing of his Rule 60(d) independent action in the District Court for the District of Columbia was not precluded by res judicata and did not violate the terms of the filing injunction that the Court imposed. As stated above, it is not strictly necessary to examine the doctrine of res judicata to determine whether Windsor violated the filing injunction. The Court need only determine whether Windsor violated the command language of the injunction, which does not include that term, but rather "the same nucleus of operative fact." Nonetheless, the Court notes that Windsor's stated understanding of "res judicata" is incorrect.

As a general matter, the doctrine of "res judicata" provides "[a]n affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that

could have been-but was not-raised in the first suit." BLACK'S LAW DICTIONARY 1425 (9th ed. 2009).

The doctrine of res judicata contains two related concepts: claim preclusion and issue preclusion. Issue preclusion generally means "[t]he binding effect of a judgment as to matters actually litigated and determined in one action on later controversies between the parties involving a different claim from that on which the original judgment was based," or "[a] doctrine barring a party from relitigating an issue determined against that party in an earlier action, even if the second action differs significantly from the first one." BLACK'S LAW DICTIONARY 298 (9th ed. 2009).

The Court of Appeals recognizes several prerequisites to the application of issue preclusion, including

> (1) the issue at stake must be identical to the one involved in the prior litigation; (2) the issue must have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in that action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue in the earlier proceeding.

I.A. Durbin, Inc. v. Jefferson Nat'l Bank, 793 F.2d 1541, 1549 (11th Cir. 1986). "Once these requirements are met, issue preclusion is available not only to defend against a demand for relief, but

also as offensive support for a demand for relief." CHARLES ALAN WRIGHT, ARTHUR R. MILLER, & EDWARD H. COOPER, FEDERAL PRACTICE AND PROCEDURE § 4416 (2d ed. 2002) (footnote omitted). "Issue preclusion, moreover, is available whether or not the second action involves a new claim or cause of action. If the second action involves the same claim or cause of action as the first, issue preclusion may be called direct estoppel. If a new claim or cause of action is involved, issue preclusion is commonly called collateral estoppel." Id. (internal footnote omitted).

For res judicata, in terms of issue preclusion, to apply, it is not necessary that all of the parties to the first lawsuit be the only parties in the second lawsuit. See id. § 4449 ("The bare fact that other parties were involved in the prior action and are not involved in the later action does not oust preclusion as to parties participating in both actions."). The parties that must be identical are the parties claiming the preclusive benefits of res judicata from the decisions rendered in the first lawsuit and the party against whom the preclusive effects of res judicata are claimed in the second lawsuit. Both, or all, of those parties must be parties in the first and second lawsuits.

Here, Windsor, Maid of the Mist Corporation, and Maid of the Mist Steamboat Company Ltd. are all parties to both the instant case and the litigation initiated by Windsor in the District of Columbia. The mere fact that Windsor included other party-defendants in the D.C. action, or that the D.C. action did not include either Alcatraz entity as a party,

does not mean that issues conclusively decided in the instant case have no preclusive effect in the D.C. litigation. The preclusive effects of the res judicata doctrine extend, for the reasons stated above, to any issues fully and fairly litigated by Windsor and the Maid entities in the instant case and conclusively decided by this Court.

The preclusive effects of res judicata also extend beyond the parties to the first lawsuit: "[i]n traditional terminology, it has been said that a judgment is binding. on parties and persons in 'privity' with a party." rd. § 4448 (footnote omitted). But to bind non-parties to an issue conclusively decided in a prior round lawsuit, modern courts tend to reject the technical requirement of privity with a party and instead assess "the specific setting [of the case], permitting free review when legal appraisal of the underlying relationships dominates the inquiry." rd. § 4449.

Here, the Maid entities' attorneys are "privies" to Maid and are entitled, by the doctrine of res judicata, to the benefit of the Court's order regarding Windsor's Rule 60(b) motion to reopen. "Generally, there is privity between a non-party and a party in a prior action if the non-party's interests were adequately represented by a party that had the same interests." Williams v. SunTrust Banks, Inc., 280 F. App'x 885, 886 (11th Cir. 2008) (per curiam) (citation omitted). The Maid entities' attorneys responded, on their clients' behalf, to Windsor's motion to reopen the case, which indiscriminately asserted claims of perjury, fraud, and discovery abuse against the aid entities, who were parties to

the lawsuit, and the Maid entities' attorneys, who were not [Doc. 362, ¶¶ 18-19, 57]. The Court denied, on its merits, that motion by Windsor, as well as numerous other postjudgment motions that asserted claims against the Maid entities' non-party attorneys, as well as the Maid entities. To the extent that the Maid entities' attorneys benefitted from the disposition of Windsor's motions, which often asserted wrongdoing against them as well as against the Maid entities, the Court concludes that the Maid entities' attorneys bore a sufficiently close relationship to the Maid entities to benefit from the outcome of the motions decided in the Maid entities' favor-and, to the same extent, in the Maid entities' attorneys' favor. For these reasons, the Maid entities' attorneys may invoke the preclusive effects of the doctrine of res judicata in defending against the D.C. action.

Finally, the claims or causes of action asserted in the first and second lawsuits need not be identical for res judicata, in terms of issue preclusion, to apply. For instance, a Rule 60(d) independent action may be precluded by a prior adverse outcome in a Rule 60(b) motion to reopen. Once the court that initially rendered judgment on the merits denies a litigant's Rule 60(b) motion to reopen the case, and the litigant either forgoes an appeal of that denial or that denial survives the litigant's appeal, the litigant may not obtain relief in another district court on the same facts by way of a Rule 60(d) independent action. See Winfield Assocs., Inc. v. Stonecipher, 429 F.2d 1087, 1088-90 (10th Cir. 1970); Locklin v. Switzer Bros., Inc., 335 F.2d 331, 334-35 (7th Cir. 1964), cert. denied, 379 U.S. 962 (1965).

Here, this Court denied Windsor's Rule 60(b) motion to reopen and was never presented with a Rule 60 (d) independent action alleging fraud on the courts. Windsor took that claim, which differed only in technical terms from his Rule 60(b) motion to reopen, to the District Court for the District of Columbia. But the technical distinctions between Windsor's previously-denied Rule 60(b) motion to reopen and his Rule 60(d) independent action are immaterial for issue-preclusive purposes. The adverse ruling that this Court rendered in May 2009, on materially similar arguments, issues, and claims for relief that Windsor subsequently made in his Rule 60 (d) independent action, precludes the relief that Windsor seeks from the federal courts in the District of Columbia. The causes of action need not be identical for preclusion to apply.

The real question here is whether Windsor violated the command language of the injunction, which prohibited filing a new lawsuit arising from the same nucleus of operative facts. Without a doubt, he did. The allegations underlying Windsor's previously-denied Rule 60(b) motion to reopen in this Court and the allegations underlying Windsor's Rule 60(d) independent action in the District Court for the istrict of Columbia, to the extent that the independent action pertains to the Maid of the Mist entities, are materially indistinguishable. Both involve broad assertions of fraud, perjury and corruption by Maid and its attorneys. These factual assertions were rejected by this Court when it denied Windsor's Rule 60(b) motion to reopen in May 2009. This decision was affirmed on appeal.

In sum, Windsor's Rule 60(d) independent action, filed in the District Court for the District of Columbia, violated the filing injunction by rehashing and reasserting claims against the Maid of the Mist entities that this Court previously considered in full and denied on their merits. Those claims arose from the same group of operative facts as claims previously made in the instant case.

G. Whether Windsor, as a Pro Se Litigant, is Responsible for Violating the Filing Injunction

Windsor implicitly argues that, as a pro se litigant, he should not be held in contempt for violating the filing injunction. The Supreme Court has held that

> [t] he absence of wilfulness does not relieve from civil contempt. Civil as distinguished from criminal contempt is a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance. Since the purpose is remedial, it matters not with what intent the defendant did the prohibited act.

McComb v. Jacksonville Paper Co., 336 U.S. 187, 191 (1949) (internal citations omitted). See also Ga. Power Co. v. Nat'l Labor Relations Bd., 484 F.3d 1288, 1291 (11th Cir. 2007) ("Our focus in a civil contempt proceeding is not on the subjective beliefs or intent of the alleged contemners in complying with the order, but whether in fact their conduct

complied with the order at issue.") (quotation omitted); Smith v. Sullivan, 611 F.2d 1050, 1052 (5th Cir. 1980) (indicating distinction between civil and criminal contempt based on relevance of contemnor's intent to each).

Nonetheless, the Court notes that Windsor clearly possesses greater knowledge, understanding, and analytical ability than the usual pro se litigant. His intellect is well above average. He could easily afford counsel, but he prefers to engage in pro se litigation as an avocation. Windsor has achieved significant financial success in various business endeavors and has derived litigation experience from his litigation in a number of courts. Though Windsor's knowledge of the law does not equal that of an attorney, his understanding of legal proceedings is above average for a layperson. His claim that he did not understand the Court's December 22 filing injunction is not genuine. Windsor knew that his conduct in filing his complaint in the District of Columbia was extremely reckless and that the chances were high that he was violating the terms of the filing injunction. Clear and convincing evidence, as described above, shows that Windsor's conduct displayed contempt for this Court.

H. Attorneys' Fees

The Maid of the Mist entities have moved the Court to award them the attorneys' fees incurred as a result of filing and prosecuting the civil contempt motion and for defending against Windsor's Verified Complaint in the lawsuit initiated in the District of Columbia federal court [Doc. 739 at 37; Doc. 741].

As the Court of Appeals has made clear, "an award of attorney fees to the injured party in a civil contempt case is within the district court's discretion." Sizzler Family Steak Houses v. Western Sizzlin Steak House, Inc., 793 F.2d 1529, 1534 (11th cir. 1986) (citation omitted). "Indeed, reimbursement to a prevailing movant may include 'expenses reasonably and necessarily incurred in the attempt to enforce compliance.'" Id. (quoting Rickard v. Auto Publisher, Inc., 735 F.2d 450, 458 (11th Cir. 1984)). This rule "provides parties with an added incentive to monitor and enforce an opponent's compliance with a court order by allowing them to recover their expenses in exposing noncompliance." Id. at 1535. And merely because an alleged contemnor does not violate a court order willfully does not mean that a district court abuses its discretion by awarding reasonably incurred attorneys' fees against the contemnor. Id.

The Court has reviewed the portions of the Maid entities' motions requesting attorneys' fees incurred as a direct result of (1) bringing the motions for contempt and sanctions and (2) review of Windsor's allegations in the District of Columbia action [Doc. 739 at 31; Doc. 741]. The Court has also reviewed the sworn declarations of Carl H. Anderson, Jr. and the exhibits detailing the attorneys' fees sought from Windsor, all of which the Maid entities attached to their motions

Upon review of the motions and their attachments, the Court concludes that the attorneys' fees incurred by the Maid entities in bringing their

motions for contempt and sanctions are reasonable, based on the prevailing rates charged by comparable counsel for comparable matters in the Atlanta legal market and taking into account the amount of time spent. The Maid entities detailed the specific work done by their Atlanta counsel, parsing out that work per task; all of the work done relates directly to, and was reasonably and necessarily incurred in, the preparation and filing of the Maid entities' motions for contempt and sanctions, which the Maid entities employed in attempts to enforce Windsor's compliance with the filing injunction. Anderson declared that the fees incurred are reasonable in comparison to similar attorneys' rates for legal work done in the Atlanta market, -33 and the fee rates charged by the Maid entities for work done by the same counsel, and granted by the Court, in this case.

The Court also concludes that the Maid entities reasonably and necessarily incurred the attorneys' fees that they seek from Windsor in preparing to defend against windsor's allegations in the District of Columbia action. Even though the D.C. action was dismissed on February 14, 2010, counsel's preliminary review of the complaint between February 4 and February 14 was appropriate; it was also necessary to prepare the civil contempt motion. This was a considerable task, given that the complaint is 504 pages long. Also, it was not unreasonable to begin work in preparation for defending against the lawsuit, and the Maid entities' counsel's fees are comparable to rates fees charged in the Atlanta legal market for similar

services, as well as comparable to rates sought and awarded to the Maid entities in this case.

III. Conclusion

For the foregoing reasons, the Court FINDS and CONCLUDES that Defendant William M. Windsor is in contempt of court for filing his "Verified Complaint" in the United States District Court for the District of Columbia against Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd., and its attorneys, Carl H. Anderson, Jr. and Hawkins & Parnell LLP. Windsor may purge himself of contempt by taking the following actions:

1) move to dismiss with prejudice all claims against Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd. and its attorneys, Carl H. Anderson, Jr. and Hawkins & Parnell LLP, in the action currently pending in the District of Columbia,[77] and furnish written proof of same to this Court by May 5, 2010;

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[77] The United States Court of Appeals for the District of Columbia Circuit currently has Windsor's appeal of Judge Leon's order dismissing the case pending before it. The undersigned is aware that the D.C. Court of Appeals does not have to dismiss Windsor's appeal, even if he files a dismissal with prejudice. That is within the discretion of that Court. Nonetheless, Windsor owes the filing of the dismissal with prejudice to the Maid entities.

2) pay a fine for contemptuous conduct in the amount of $5,000.00 into the registry of this Court by delivering a cashier's or certified check to the Clerk of this Court no later than May 5, 2010;
3) reimburse the Maid entities for the attorneys' fees incurred in the filing and prosecution of the contempt motions and for work done on the District of Columbia litigation, in the total amount of $19,010.00[78], paid by certified or cashier's check and delivered to Carl H. Anderson, Jr. at Hawkins & Parnell LLP no later than May 5, 2010.

As stated above, the filing injunction in the December 22 order not intended to enjoin Windsor from filing any materials in the of Appeals, and does not require Windsor to obtain the Undersigned's permission before filing notices of appeal of this Court's orders. The December 22, 2009 filing injunction is hereby MODIFIED in this regard.

The Clerk is DIRECTED to send a copy of this order by mail to William M. Windsor at the following addresses:

3924 Lower Roswell Road Marietta, GA 30068 P.O. Box 681236 Marietta, GA 30068. The Clerk is also DIRECTED to send a copy to Mr. Windsor's fax, As follows: Fax: 770-234-4106

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[78] This is somewhat less than the amount orally announced in Court on April 23, 2010.

So ORDERED, this 23 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil case comes before the Court on Defendant William M. Windsor's ("Windsor's") pro se "Emergency Motion for Stay and Motion to Vacate Orders" [Doc. 78S], to which Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") have responded [Doc. 787].[79] For the following reasons, Windsor's motion is DENIED.[80]

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[79] Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further motions, pleadings, or other papers in this closed case by the Court's order of December 22, 2009 [Doc. 723 at 19] This permanent filing injunction notwithstanding, the

The Court permanently enjoined Windsor, and those acting in concert with him or at his behest, from filing any further motions, pleadings, or other papers in this closed case in an order dated December 22, 2009 [Doc. 723 at 19] The Court also permanently enjoined Windsor from filing "in any court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case," which ·would be barred by the doctrine of res j udicata" and "would serve no purpose except to harass Plaintiffs" [Doc. 723 at 19].

Windsor appealed the Court's December 22 order and the permanent filing injunction to the United States Court of Appeals for the Eleventh Circuit on December 31, 2009 [Doc. 726], but did not move for a stay of the filing injunction or post a supersedeas bond in support of a stay at that time. Windsor's appeal of the December 22 order is still pending in the Court of Appeals.

Windsor argues that, because of his appeal of the December 22 order, this Court lacks jurisdiction to issue any orders related to that order after December 31, 2009. Windsor argues that all orders

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Court expressly permitted Windsor to file the instant motion [Doc. 782].

[80] On April 23, 200, the undersigned orally denied the instant motion [Doc. 788]. This Order supplements the Court's previous denial.

issued by the Court after December 31, 2009, are thus void and must be vacated. Further, Windsor challenges the Court's jurisdiction to assess (1) whether Windsor violated the permanent filing injunction by filing a Rule 60 (d) independent action to set aside the judgment in this closed case in the United States District Court for the District of Columbia and (2) whether he should be held in contempt of court for initiating that lawsuit.

The Court has difficulty determining precisely what Windsor requests the Court to stay in the instant motion. On one hand, Windsor states that, "[s]ince December 31, 2009, a Judgment was improperly entered as well as a Writ of Execution, and the Plaintiffs have threatened collection action on [the] Writ of Execution" [Doc, 785, ¶ 17] Windsor notes that "[t] here have also been two hearings with three days' of testimony thus far" on Plaintiffs' motion for post-judgment attorneys' fees and expenses and Plaintiffs' motions for Windsor, along with Ryan Windsor and the other Defendants in this case, to show cause why they should not be held in contempt of the Court's December 22 order based on Windsor's filings in the District of Columbia [Doc. 785, ¶ 17].

To the extent that Windsor moves the Court to stay its April 9, 2010 order directing Windsor to personally pay Plaintiffs $192,377.87 in post-judgment attorneys' fees and expenses (Doc. 752], the Clerk of Court's final judgment against Windsor in that amount [Doc. 753], and/or the writ of execution issued against Windsor by the Clerk of Court, the motion is DENIED.

As noted in a prior order denying, without prejudice, Windsor's request to stay the final judgment (the April 9, 2010 judgment in the amount of $192,377.87 against Windsor personally) and writ of execution against him, Windsor has not submitted a cash deposit or any supersedeas bond to the Clerk of Court that would justify staying the final judgment or the writ of execution [Doc. 777 at 3] Cf.FED. R. Civ. P. 62 (d) In the absence of a posted bond or cash deposit, a motion by Windsor for the Court to approve the bond or deposit, and an order approving the bond or deposit, the Court may not grant Windsor a stay from the final judgment or writ of execution any further than the automatic fourteen-day stay provided by Federal Rule 62 (a) The Court has already ordered the final judgment and writ of execution stayed during that time period [Doc. 777 at 3-41, and without more from Windsor, the Court will not grant a longer stay.

To the extent that Windsor moves the Court to stay the operation of the permanent filing injunction established as part of the Court's December 22 order, the motion is DENIED. Federal Rule 62 (c) permits an enjoined party to move the district court to suspend or modify "an injunction on terms for bond or other terms that secure the opposing party's rights" during the pendency of an appeal from an order or final judgment granting an injunction.

But Windsor has not offered a proposal, or any reasonable suggestion, far how the Court can secure Plaintiffs` rights if the December 22, 2009 filing

injunction is stayed pending appeal. Windsor merely states that he "will not violate the injunction" and he "will not file any new actions involving the Plaintiffs that would involve `res judicata' and the same nucleus of operative fact'" [Doc. 785, ¶ 18] should the Court stay the operation of the permanent filing injunction pending his appeal. This is insufficient. Thus, the permanent filing injunction remains in full force and effect.

To the extent that Windsor moves the Court to vacate all orders related to the December 22 order and issued after he filed his Notice of Appeal on December 31, 2009, the motion is DENIED.

In challenging the Court's jurisdiction to issue orders
ancillary to the December 22 order being appealed, Windsor relies heavily on the general proposition that "[t]he filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982) From this general proposition, Windsor argues that his appeal of the Court's December 22 order divested the Court of any jurisdiction to issue orders related to the December 22 order or to hold Windsor in contempt for violating that order.

But the rule from Griggs is not absolute. Rather, Federal Rule 62(a) carves out an exception to the general Griggs rule, providing that, "unless the court orders otherwise, an interlocutory or final

judgment in an action for an injunction [is] not stayed after being entered, even if an appeal is taken." This exception to the general rule recognizes district courts' authority to "maintain[] continuing jurisdiction to enforce a judgment" granting an injunction, even while an appeal from that judgment is pending. United States v. Revie, 834 F.2d 1198, 1205 (5th Cir. 1987) And " [u]ntil [that] judgment has been properly stayed or superseded, the district court may enforce it through contempt sanctions." Id. (citations omitted).

As stated above, the order imposing the permanent filing injunction on Windsor, and those acting in concert with him or at his behest, has not been stayed by operation of the Federal Rules, or an order of this Court, or superseded by the Court of Appeals. In such circumstances, the Court's December 22 order, and the permanent filing injunction established therein, remain in full force and effect notwithstanding Windsor's pending appeal. The Court retains jurisdiction to issue any orders necessary to enforce the injunction and to ensure the parties' continuing compliance with the injunction's terms.

For the foregoing reasons, Windsor's "Emergency Motion for Stay and Motion to Vacate Orders" [Doc. 785] is DENIED.

SO ORDERED, this 27 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR

Defendants

ORDER

The Court has received several documents sent by Defendant William M. Windsor ("Windsor") to the chambers of the undersigned, including a proposed "Motion for Clarification," a proposed "Motion for Stay and Motion for Approval of Bond," and a proposed "Motion for Redaction." Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case. Windsor has sent these documents attached to a letter dated April 27, 2010 requesting that the undersigned file them with the Clerk of Court on his behalf.

Having reviewed the documents, the undersigned will not file them with the Clerk of Court or enter them onto the case's docket, and denies Windsor's request to that effect.

The proposed "Motion for Clarification" and "Motion for Stay" do not cite a basis for the Court to grant the relief requested and make duplicative arguments already made by Windsor and previously denied by the Court [Doc. 777] Similarly, the proposed "Motion for Redaction" duplicates requests already made by Windsor and is otherwise entirely unnecessary. The Court will not make an exception to the permanent filing injunction to permit these motions to be filed with the Clerk of Court.

In his cover letter, Windsor also requests: "Please advise if you will allow me to post a cash bond for the fines and fees." In a Memorandum Opinion entered on April 26, 2010, holding Windsor in civil contempt, the Court ordered Windsor to pay, by certified or cashier's check, a $5,000.00 fine into the registry of the Court, as well as attorneys' fees in the amount of $19,010.00 to Carl H. Anderson, Jr. of the law firm of Hawkins & Parnell LLP.

The Court will not advise Windsor regarding the manner in which he may satisfy these obligations. To the extent that Windsor seeks such advice from the Court, the Court again suggests that he retain counsel.

SO ORDERED, this 28 day of April, 2010.
/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

By Order dated April 28, 2010, this Court denied William M. Windsor's request that the undersigned file the following documents with the Clerk of Court on his behalf: a proposed "Motion for Clarification," a proposed "Motion for Stay and Motion for Approval of Bond," and a proposed "Motion for Redaction." The Court hereby forwards the above-mentioned documents to the Clerk of Court solely to document the motions referenced in the Court's April 28 order. The Clerk of Court is DIRECTED not to file these documents as pending motions on this case's docket or elsewhere.

SO ORDERED, this 29 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received several documents sent by Defendant William M. Windsor ("Windsor") to the chambers of the undersigned, including a proposed "Motion to Approve Compliance with order of Contempt." Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case. Windsor has sent this proposed motion, attached to a letter dated April 28, 2010, requesting that the undersigned file it with the Clerk of Court on his behalf.

Having reviewed the documents, the undersigned will not file the proposed motion with

the Clerk of Court or enter it onto the case's docket, and denies Windsor's request to that effect.

The proposed motion would, if filed, request that the Court "issue an order declaring that Windsor has complied" with the requirement that Windsor move to dismiss, with prejudice, all claims against Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Carl H. Anderson, Jr., and Hawkins & Parnell LLP in litigation currently proceeding through the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia Circuit, and provide written proof to the Court of such motions before May 5, 2010. The Court required Windsor to file these motions to purge himself, in part, of civil contempt [Doc. 794 at 34-35].

But the Court need not, and will not, engage in piecemeal approval of Windsor's efforts to purge himself of this contempt.[81] The Court's

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[81] Even if the Court agreed to file and duly considered Windsor's proposed "Motion to Approve Compliance with Order of Contempt," the Court would not approve of the efforts that Windsor has made thus far. The documents attached to the proposed motion, which Windsor claims to have sent by overnight courier to the federal courts in the District of Columbia, do not move those courts to dismiss with prejudice all claims against Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Carl H. Anderson, Jr., and Hawkins & Parnell LLP. Rather, the documents move those courts to "remove" those parties from the litigation.

Memorandum Opinion clearly states the actions that Windsor must take to purge himself of contempt and the deadlines with which Windsor must comply. If Windsor complies in full with the actions required by the Court's Memorandum Opinion, he will purge himself of civil contempt. Windsor need not propose motions requesting the Court's approval along the way.

For these reasons, the Court will not make an exception to the permanent filing injunction to permit Windsor's proposed motion to be filed with the Clerk of Court. The Court has forwarded the documents to the Clerk of Court solely to document the proposed motion, and its attachments, referenced in this Order. The Clerk of Court is DIRECTED not to file these documents as pending motions on this case's docket or elsewhere.

SO ORDERED, this 30 day of April, 2010.

Such language does not track the language used by the Court in its Memorandum Opinion [hoc. 794 at 34), which clearly directs Windsor to move to dismiss, with prejudice, all claims against Maid of the Mist Corporation, Maid of the Mist Steamboat Company, Ltd., Carl H. Anderson, Jr., and Hawkins & Parnell LLP in the D.C. litigation. As such, Windsor's filings do not satisfy any of the requirements set forth in the Memorandum Opinion of April 26.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The court has received from Defendant William M. Windsor ("Windsor") a "Motion for Receipt of Cashier's Check, Motion for Stay and Motion for Approval of Bond," to which Windsor attached a cashier's check payable to the order of the United States District Court in the amount of $192,377.87.[82] The Clerk of Court is directed to file the motion; further, the motion is GRANTED.

[82] Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case [Doc. 723 at 19]. Windsor sent the proposed motion and its attachments

In an order entered April 9, 2010, the Court ordered "Windsor to personally pay $192,377.87 in attorneys' fees, costs, and expenses incurred by Plaintiffs [Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. as a direct result of the post-judgment motions that Windsor filed in this case after May 22, 2009" [Doc. 752 at 4] The Court also directed the Clerk of Court "to enter a final judgment against William M. Windsor in that amount" [Doc. 752 at 4], which the Clerk did [Doc. 753]. Finally, the Court directed the Clerk of Court "to issue a writ of execution for that amount in Plaintiffs' names against William M. Windsor, " which the Clerk also did. The Court later clarified that "execution of the writ and collection of the judgment [was] STAYED until April 24, 2010-fourteen days after the Clerk's entry of [final] judgment-in accordance with Federal Rule of Civil Procedure 62(a)" [Doc. 777 at 3-41.

Windsor appealed the Court's April 9, 2010 order and the judgment on April 15, 2010 [Doc.766].

Pursuant to Federal Rule 62 (d), if a litigant takes an appeal from an order granting a money judgment, that litigant "may obtain a stay by supersedeas bond," which "may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect

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requesting that the undersigned file them with the Clerk of Court on his behalf.

when the court approves the band." Windsor has submitted the above-mentioned cashier's check in lieu of a supersedeas bond and moves the Court (1) to approve the cashier's check in lieu of a bond and (2) to stay the Court's April 9, 2010 order granting $192,377.87 in attorneys' fees, costs, and expenses, the Clerk of Court's final judgment in that amount, and the writ of execution pending Windsor's appeal.

Windsor's motion for approval of the $192,377.87 deposit into the registry of the Court in lieu of a bond is GRANTED. Windsor's motion for a stay of proceedings to enforce the judgment is hereby GRANTED pending final resolution of Windsor's appeal of the Court's order granting judgment in the amount of $192,377.87.

SO ORDERED, this 30 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on a "Supplemental Declaration of Carl H. Anderson, Jr. ("Anderson"), with attached exhibits [Docs. 755 to 755-4], and a "Supplemental Declaration of Marc W. Brown" ("Brown"), with attached exhibits [Docs. 756 to 755-3]. Anderson and Brown are, respectively, Atlanta, Georgia and Buffalo, New York counsel for Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") in this case.

At a hearing held before the undersigned on April 8, 2010, the Court granted Plaintiffs' "Motion for Post-Judgment Attorney's Fees and Expenses Pursuant to 28 U.S.C. § 1927, This Court's Inherent

Authority, and O.C.G.A. § 13-6-11" [Doc. 728], awarding Plaintiffs $192,377.87 in attorneys' fees and expenses incurred as a result of the numerous frivolous post-judgment motions filed by Defendant William M. Windsor ("Windsor"), proceeding pro se, after May 22, 2009, when the Court denied Windsor's first Rule 60(b) motion to reopen the case, among others [Doc. 752 at 4].

The Court issued its order awarding those attorneys' fees and expenses to Plaintiffs

> without prejudice to Plaintiffs' right to submit supplemental documentation regarding any additional time spent by Plaintiffs' attorneys, and expenses incurred by Plaintiffs, in preparing for and attending the April 8 hearing or in responding to Windsor's post-judgment motions filed before May 22, 2009, which had not been ruled on by May 22, 2009, and which were not the subject of the April 8 hearing

[Doc. 752 at 5]. At the hearing, the Court indicated that it would treat any such documentation as a motion [Doc. 768 at 98-99].

On April 12, 2010, Plaintiffs submitted the supplemental declarations of Anderson and Brown. In these declarations, Anderson and Brown swear to certain attorneys' fees and expenses incurred by Plaintiffs as a result of work done (1) to review and respond in opposition to other post-judgment motions filed by Windsor that were not the subject of the Court's May 22, 2009 order or the April 8, 2010

motion hearing, and (2) to prepare and argue the motion for post-judgment attorneys' fees and expenses. Plaintiffs now seek a total of $76,076.72 in attorneys' fees and expenses from Windsor [Doc. 755, ¶ 16].

Notwithstanding a permanent filing injunction imposed on Windsor, and those acting in concert with him or at his behest, by order of the Court dated December 22, 2009, the Court issued its order granting Plaintiffs' motion for post-judgment attorneys' fees and expenses "without prejudice to Windsor's right to file one response to any [supplemental] documentation [submitted by Plaintiffs]," if he wished to file such a response [Doc. 752 at 5] As permitted by the Court, on April 15, 2010, Windsor filed a pro se response, with an attached declaration, in opposition to the supplemental declarations of Anderson and Brown [Doc. 771.

"A court may impose sanctions for litigation misconduct under its inherent power." Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc., 561F.3d 1298, 1306 (11th Cir. 2009) (citing Chambers v. NASCO, Inc., 501 U.S. 32, 43-44 (1991)), "The court's inherent power derives from the court's need `to manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases." Id. (quoting Chambers, 501 U.S. at 43) "The key to unlocking a court's inherent power is a finding of bad faith." Barnes v. Dalton, 158 F.3d 1212, 1214 (11th Cir. 1998),

In addition, 28 U.S.C. § 1927 provides, in pertinent part, that "[a]ny attorney or other person admitted to conduct cases in any court of the United States who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct." Though mixed authority exists, one federal appellate court has held that "Section 1927 sanctions may be imposed upon a pro se plaintiff." Wages v. Internal Revenue Serv., 915 F.2d 1230, 1235-36 (9th Cir.1990) ((citing Wood v. Santa Barbara Chamber of Commerce, Inc., 699 F.2d 484, 485-86 (9th Cir. 1983)).

The Court has closely reviewed the supplemental declarations of Anderson and Brown, Windsor's response, and all attachments to those documents. The Court specifically compared the fee tables submitted by Anderson and Brown in support of their supplemental declarations [Docs. 755-2 to 755-4 & 756-2 to 755-3] to fee tables previously submitted by Anderson and Brown in support of their original motion for post-judgment attorneys' fees and expenses [Docs. 746-2 & 746-31]. The Court has found no overlap in the work done, or the fees and expenses incurred and requested, as between these two sets of documents. The Court has not previously awarded plaintiffs any of the fees or expenses that they now request.[83]

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[83] In addition, none of the attorneys' fees now sought by Plaintiffs relate to fees that Plaintiffs incurred in bringing two motions for contempt against Windsor [Dots. 739 & 741] or in reviewing

Plaintiffs request attorneys' fees for work done by their counsel at Hawkins & Parnell LLP on seven motions for which the Court has already awarded Plaintiffs some amount of attorneys' fees. For instance, on Windsor's "Emergency Motion for Stay" [Doc. 416], filed June 15, 2009, Plaintiffs now request $1,375.00 in supplemental attorneys' fees [Dot. 755,1 6]. The Court previously awarded Plaintiffs $947.50 for work performed by their counsel related to that motion [Doc. 746, T 23] But a close inspection of the fee tables attached to Anderson's supplemental declaration and those attached to his initial declaration shows that Plaintiffs' counsel performed different work related to that motion each time. Plaintiffs incurred the fees that they now seek from Windsor as a result of different work by Plaintiffs' counsel than the fees for work done by counsel that the Court already awarded.

In addition, Plaintiffs now seek attorneys' fees based on work performed by their counsel related to two letters sent to the chambers of the undersigned by Windsor [Docs. 743 & 747] [Doc. 755, ¶¶ 12-13]. Plaintiffs have not previously requested, and the Court did not previously award, Plaintiffs any fees incurred by their counsel in reviewing these letters.

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and preparing to defend against Windsor's recent, related allegations against Plaintiffs in the District of Columbia federal courts. The Court already ordered Windsor to pay those attorneys` fees in its Memorandum Opinion dated April 26 , 2010 [Doc. 794 at 35].

As it did in its prior order awarding Plaintiffs $192,377.87 in post-judgment attorneys' fees and expenses, the Court again finds, upon review of the record of this closed litigation, that the motions submitted by Windsor in this case after May 22, 2009, have been totally frivolous.2 The Court again finds that Windsor filed these motions in bad faith, that Windsor's conduct in filing these motions was highly willful and wanton, unreasonable, and vexatiously and unreasonably multiplied the proceedings in this closed case and the expenses incurred by Plaintiffs.

The Court also finds, as it did in its prior order, that the amount of work performed by Plaintiffs' counsel in responding to Windsor's frivolous post-judgment motions, and in preparing and arguing the motion for post-judgment attorneys' fees and expenses before the undersigned, was reasonable. Anderson and Brown laid out in detail, and swore to, the fees and expenses incurred based on each frivolous post-judgment motion that they reviewed and responded to on Plaintiffs' behalf. Again, Plaintiffs' counsel did not voluntarily undertake the work that they performed. Rather, that work was foisted upon Plaintiffs' attorneys, and the fees and expenses for the work done foisted upon Plaintiffs, solely and directly as a result of Windsor's frivolous post-judgment motions.

2 A list of the frivolous motions is appended to this order.

The Court further finds entirely reasonable the $76,076.72 in attorneys' fees, costs, and expenses incurred by Plaintiffs in responding to those frivolous post-judgment motions filed by Windsor for which Plaintiffs now seek reimbursement, as well as in bringing and arguing the motion for post-judgment attorneys' fees and expenses before the undersigned, all of which have been itemized in detail in submissions to the Court. Plaintiffs called two witnesses at the hearing on their initial motion who were familiar with the fees charged by comparable attorneys in the Atlanta and Buffalo markets. Those witnesses opined that the fees charged by Hawkins & Parnell LLP and Phillips Lytle LLP were reasonable given the unique circumstances of this case's post- judgment phase [Doc. 768 at 20, 35] One of the witnesses further opined that the supplementary fees and expenses that he reviewed, which make up part of the fees and expenses now being requested by Plaintiffs, were reasonable and directly related to the work done in responding to Windsor's frivolous motions and preparing for the hearing before the undersigned [Doc. 768 at 23.-22] Having considered those witnesses' testimony and the sworn supplemental declarations of Anderson and Brown to the extent that they also address the matter, the Court agrees.

Having made these findings, and further finding that Windsor personally possesses the means to pay the attorneys' fees, costs, and expenses currently being sought by Plaintiffs, the Court,

pursuant to 28 U.S.C. § 1927 and the Court's inherent authority to control its docket, hereby ORDERS Windsor to personally pay$76,076.72 in attorneys' fees, costs, and expenses incurred by Plaintiffs as a direct result of the work done by counsel to address the frivolous post-judgment motions that Windsor filed in this case, reimbursement for which the Court had not yet awarded.

The Clerk of Court is hereby DIRECTED to enter a final judgment against William M. Windsor in the amount of $76,076.72.

The Clerk of Court is also DIRECTED to issue a writ of execution for that amount in Plaintiffs' names against William M. Windsor fourteen days after the entry of the final judgment, consistent with Federal Rule of Civil Procedure 62(a).

SO ORDERED, this 30 day of April, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received from Defendant William M. Windsor ("Windsor") a proposed "Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction." Despite the caption, this has been filed as one motion. Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case [Doc. 723 at 19]. Windsor has sent this proposed motion, attached to a letter dated May 3, 2010, requesting that the undersigned file it with the Clerk of Court on his behalf.

Having read and considered the proposed motion submitted by Windsor, the Clerk of Court is DIRECTED to file the motion on the docket. Windsor's "Motion to file Financial Documents Under Seal" is GRANTED. The Clerk of Court is DIRECTED to place the documents attached by Windsor to the proposed motion as "Exhibit F" under seal. However, the Court notes that these documents will not be considered in any way as they have not been furnished to counsel for Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd.

Windsor's "Motion to Vacate Contempt Fine and Legal Fees Sanction" is DENIED.

Windsor is DIRECTED to serve a copy of his motion on counsel for Plaintiffs by courier immediately. Plaintiffs may file a response to Windsor's "Emergency Motion for Stay" and "Motion to Refund $192,377.87" no later than Wednesday, May 5, 2010.

SO ORDERED, this 3 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received from Defendant William M. Windsor ("Windsor") a proposed "Motion for Reconsideration of April 9, 2010 Orders and April 10, 2010 Clerk's Judgment and Writ of Execution." Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case [Doc. 723 at 19]. Windsor sent this proposed motion, attached to a letter dated May 3, 2010, requesting that the undersigned file it, and its numerous attached exhibits, with the Clerk of the Court on his behalf.

Having reviewed the proposed motion submitted by Windsor, the Clerk of the Court is DIRECTED to file the motion and its attachments on the Docket. Upon due consideration, Windsor's "Motion for Reconsideration of April 9, 2010 Orders and April 10, 2010 Clerk's Judgment and Writ of Execution" is hereby DENIED.

SO ORDERED, this 4 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received from Defendant William M. Windsor ("Windsor") a proposed "Motion to Approve Compliance with Order of Contempt; Motion for Receipt of Cashier's Check; Motion for Stay; and Motion for Approval of Bond," to which Windsor attached a letter dated May 4, 2010, and a cashier's check payable to the order of the United States District Court in the amount of $24,010.00. The Court has also received from Windsor a proposed "Amendment to Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction," to which Windsor attached a letter dated May 5, 2010. Windsor, and those acting in concert

with him or at his behest, have been permanently enjoined by the Court's order of December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case. Windsor sent the proposed motion and amendment requesting that the undersigned file them with the Clerk of Court on his behalf.

Having reviewed the proposed motion and amendment, the Clerk of Court is DIRECTED to file them. Despite its caption, Windsor's "Motion to Approve Compliance with Order of Contempt; Motion for Receipt of Cashier's Check; Motion for Stay; and Motion for Approval of Bond" should be filed as one motion only, and that motion is GRANTED IN PART.

Specifically, the Clerk of Court is DIRECTED to deposit the funds represented by the cashier's check in the amount of $24,010.00 into the Court's registry pending further order of the Court. Should Windsor perfect an appeal of the Court's April 26 contempt order [Doc. 794],[84] the Court will consider whether to approve those funds in lieu of a bond pending Windsor's appeal of the contempt order.

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[84] The Court notes that Windsor filed a Notice of withdrawal of his Notice of Appeal of the Court's contempt order to this Court on May 3, 2010 [Doc. 822]. Thus, the status of his appeal of that order is unclear.

To the extent that Windsor's "Motion to Approve Compliance with Order of Contempt; Motion for Receipt of Cashier's Check; Motion for Stay; and Motion for Approval of Bond" requests any additional relief, the Court defers ruling on that motion until Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. have an opportunity to respond.

Windsor's "Amendment to Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction" is GRANTED only to the extent that it moves the Court to file certain financial documents, attached to the amendment as "Exhibit B," under seal. The Clerk of Court is DIRECTED to file those documents under seal. The Court notes that it will not consider the sealed documents in "Exhibit B," or other financial documents entered on the docket under seal [Doc. 821], unless Windsor furnishes these documents to Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. The Court cannot discern any additional relief sought by Windsor by way of this amendment to his prior motion, but to the extent that the amendment includes any requests for additional relief, those requests are DENIED.

SO ORDERED, this 5 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

On May 3, 2010, this Court directed the Clerk of Court to file Defendant William M. Windsor's ("Windsor's") proposed pro se "Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction" as one motion on the docket of this closed case [Doc. 820], notwithstanding a permanent filing injunction prohibiting Windsor from filing the proposed motion himself [Doc. 823 at 1].[85]

[85] The Court granted Windsor's motion, once filed by the Clerk, to the extent that it requested that certain financial documents [Doc. 821] submitted by Windsor be filed under seal [Doc. 823

To the extent that the Court did not dispose of Windsor's motion outright, the Court permitted Plaintiffs to file a response to Windsor's motion by Wednesday, May 5, 2010 [Doc. 823 at 2].

Plaintiffs timely filed such a response [Doc. 842], as well as a motion to strike [Doc. 842] portions of a declaration offered by Windsor in support of his motion [Doc. 820 at 30-36, 45].

The Court has since received three documents with numerous attachments, which Windsor sent to the chambers of the undersigned and attached to a cover letter dated May 6, 2010:

- a proposed "Reply to Plaintiffs' Response in Opposition to William M. Windsor's Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction";

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at 1] Conversely, the Court denied Windsor's motion to the extent that it moved the Court to vacate its civil contempt order of April 26, 2010 [Doc. 794] or its order of April 9, 2010 [Doc. 752] granting Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") $192,377.87 in attorneys' fees, expenses, and costs incurred as a result of frivolous post-judgment motions filed by Windsor in this closed case after May 22, 2009 [Doc. 823 at 2].

- a proposed "Motion for Protective Order"; and
- a proposed "Response to Plaintiffs' Notice of Objection and Motion to Strike Portions of William M. Windsor's 125th Declaration."

Given the permanent filing injunction imposed on Windsor, and those acting in concert with him or at his behest, by order of the Court dated December 22, 2009 [Doc. 723 at 19], Windsor submitted these documents to the undersigned's chambers requesting that the undersigned file them with the Clerk of Court on his behalf.

Having reviewed the proposed filings submitted by Windsor, the Clerk of Court is DIRECTED to file all of the documents, and their attachments, on this case's docket.

The Court has reviewed and duly considered Plaintiffs' response to Windsor's "Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction,[86] as well as Windsor's reply to Plaintiffs' response. To the extent that Windsor's motion requests any additional relief not yet granted or denied by the Court, the motion [Doc. 820] is hereby DENIED.

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[86] The Court has also reviewed and duly considered Plaintiffs' motion to strike Windsor's sworn declaration offered in support of that motion. Plaintiffs' motion to strike [Doc. 841] is DENIED.

The Court has reviewed and duly considered Windsor's "Motion for Protective Order." That motion is hereby DENIED.

Finally, the Court has reviewed and duly considered Windsor's "Response to Plaintiffs' Notice of Objection and Motion to Strike Portions of William M. Windsor's 125th Declaration." In that document, Windsor moves the Court to strike Plaintiffs' motion to strike Windsor's sworn declaration, arguing that the motion is frivolous and that Plaintiffs have presented duplicitous arguments to support striking Windsor's declaration. Windsor also requests, in his prayer for relief, an award of $1,250,000.00. To the extent that this filing requests any affirmative relief from the Court, all such requests are hereby DENIED.

To summarize:

- To the extent that Windsor's "Emergency Motion for Stay; Motion to File Financial Documents Under Seal; Motion to Refund $192,377.87; and Motion to Vacate Contempt Fine and Legal Fees Sanction" requests any affirmative relief not already granted or denied by order of this Court, that motion [Doc. 820] is DENIED;

- Plaintiffs' motion to strike Windsor's sworn declaration offered in support of that motion [Doc. 841] is DENIED; Windsor's "Motion for Protective Order," once filed by the Clerk of Court, is DENIED;

- To the extent that Windsor's "Response to Plaintiffs' Notice of Objection and Motion to Strike

Portions of William M. Windsor's 125th Declaration" requests any affirmative relief from the Court, that motion is, once filed by the Clerk of Court, DENIED.

SO ORDERED, this 14 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil case is before the Court on the request of William M. Windsor that I allow him to file certain motions, notwithstanding the filing injunction entered in this case on December 22, 2009.

The specific motions Windsor seeks to file were delivered to chambers on Friday, May 14, 2010. They are as follows:

- Emergency Motion for Stay Dated May 14, 2010 and Motion for Approval to File Lawsuit Against Plaintiffs, Hawkins & Parnell, and Carl Hugo Anderson

- Notice of Filing of Emergency Motion for Stay Dated May 14, 2010 and Motion for Approval to File Lawsuit Against Plaintiffs, Hawkins & Parnell, and Carl Hugo Anderson

- Motion for Receipt of Check, Motion for Stay, and Motion for Approval of Bond

- Notice of Filing of Motion for Receipt of Check, Motion for Stay, and Motion for Approval of Bond.

Having reviewed the motions, they are hereby ORDERED filed.

Beginning with the Motion for Receipt of Check, the undersigned ' acknowledges the Court Is receipt in chambers of Mr. Windsor's personal, check in the amount of $76,076.72 on May 14, 2010, However, the Clerk of Court cannot accept Mr. Windsor ' s personal check; Mr. Windsor has been notified telephonically today that he must submit a certified, check or cashier's check in order to obtain a stay of execution of the judgment. Accordingly, the Motion for Stay is DENIED WITHOUT PREJUDICE to presentation of an appropriate cashier's check or certified check.

With respect to Windsor's Motion for Approval to File a Lawsuit against Hawkins & Parnell and Carl Hugo Anderson, this motion is DENIED. It is not entirely clear what sort of lawsuit this would be, and thus the Court cannot determine whether it would violate the December 22, 2009 filing injunction. The Court does perceive that Windsor

objects to the fact that a lien on his real property in the amount of $192,377.87 remains outstanding, notwithstanding the fact that he filed a cash supersedeas bond in the amount of $192,377.87 to act as a stay of execution of the judgment pending his appeal of the $192,377.87 judgment. The Court DIRECTS Plaintiffs to show cause why the lien should not be expunged in light of the filing of the cash supersedeas bond. Plaintiffs' brief must be filed within three (3) business days of date of entry of this Order.

SO ORDERED, this 17 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on Defendant William M. Windsor's ("Windsor's") pro se "Amended Motion for Receipt of Check, Motion for Stay, and Motion for Approval of Bond" [Doc. 872], filed May 18, 2010.[87] In that motion, Windsor moves the Court for a stay of its order dated

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[87] On that date, the Court directed the Clerk of Court to file Windsor's motion [Doc. 874 at 2], notwithstanding a permanent filing injunction imposed on Windsor, and those acting in concert with him or at his behest, by order of the Court dated December 22, 2009 [Doc. 723 at 19].

April 30, 2010 [Doc. 816], in which the Court ordered Windsor to personally pay Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. $76,076.72 in attorneys' fees, costs, and expenses incurred as a result of numerous frivolous post-judgment motions filed by Windsor in this closed case [Doc. 872 at 2].[88]

In an order issued on May 18, the Court deferred ruling on Windsor's motion [Doc. 874 at 2]. Upon due consideration, that motion is now DENIED WITHOUT PREJUDICE to refiling.

In its May 18 order, the Court noted that "[n]o stay can be obtained unless a timely notice of appeal with respect to the $76,076.72 judgment [Doc. 8 1 7] has been filed" [Doc. 874 at 2] As when the Court issued its May 18 order, Windsor has filed no Notice of Appeal of that judgment, or the Court's April 30 order, or the writ of execution. In such circumstances, the Court cannot grant Windsor a stay of that order or any of its attendant decrees. Windsor may only present a motion for approval of bond and a motion for stay pending appeal if and

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[88] In its April 30 order, the Court also directed the Clerk of Court to enter a final judgment against Windsor in that amount [Doc. 816 at 7], which the Clerk did [Doc. 817], as well as a writ of execution in that amount. In his motion, Windsor seeks to stay enforcement and execution of the Clerk's final judgment and the writ of execution as well [Doc. 872 at 2].

when he timely files a notice of appeal with the Clerk of Court, accompanied by a cashier's or certified check in the amount of the filing fee, $455.00. Until Windsor does so, his premature motion to that effect [Doc. 872] is DENIED WITHOUT PREJUDICE to refiling.

SO ORDERED, this 25 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

On April 9, 2010, this Court ordered Defendant William M. Windsor ("Windsor") to personally pay $192,377.87 in attorneys' fees, costs, and expenses incurred by Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") as a result of numerous frivolous post-judgment motions filed by Windsor, proceeding pro se, in this closed case after May 22, 2009 [Doc. 752 at 4] The Court directed the Clerk of Court to issue a final judgment and a writ of execution in favor of Plaintiffs and against Windsor in that amount [Doc. 752 at 4], which the Clerk did [Doc. 753].

On April 15, Windsor filed a Notice of Appeal of, in part, the Court's April 9 order, the Clerk's judgment, and the writ of execution issued against him [Doc. 766]. The docket reflects that Windsor did not accompany that Notice of Appeal with the required filing fee; the Clerk subsequently mailed Windsor notice advising him that his filing fee had not been received [Doc. 772].[89]

On April 21, the Court clarified that execution of the writ and collection of the judgment authorized by the April 9 order would be stayed until April 24, 2010-fourteen days after the Clerk's entry of the judgment on the docket-in accordance with Federal Rule of Civil Procedure 62(a) [Doc. 777 at 3-4]. On April 29, Windsor filed a "Motion for Receipt of Cashier's Check, Motion for Stay and Motion for Approval of Bond" [Doc. 814].[90] To that motion, Windsor attached a cashier's check in the amount of $192,377.87 and moved the Court to approve the

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[89] The docket reflects that Windsor, after filing one amended notice of appeal [Doc. 805], filed a "Second Amended Notice of Appeal" of the Court's April 9 order, the final judgment and the writ of execution, and attached to that Notice of Appeal the $455.00 appeal filing fee, on May 5, 2010 [Doc. 850].

[90] Despite a permanent filing injunction imposed, by order of the Court, on Windsor and those acting in concert with him or at his behest, the Court directed the Clerk of Court to file this motion on the docket of this closed case [Doc. 815 at 1].

check in lieu of a bond and issue a stay of the Court's April 9 order, the final judgment, and the writ of execution [Doc. 814 at 1. -2). On April 30, the Court granted the motion, approved the cashier's check in lieu of a bond, and granted a stay of the April 9 order, the final judgment, and the writ of execution [Doc. 815 a t 2].

On May 13, Plaintiffs filed a "Notice of Filing of Writ of Execution on General Execution Docket" [Doc. 856]. In that document, Plaintiffs gave notice that, on April 28, they "recorded the Writ of Execution in the amount of $192,377.87" on the general execution dockets of the Superior Courts of Cobb County and Fulton County, Georgia [Doc. 856 at 1]. Plaintiffs attached the writ of execution, stamped with recording information from the clerks of both of those courts, to their Notice of Filing [Doc. 856-2].

On May 17, in light of the Court's approval on April 30 of Windsor's cashier's check and the stay granted pending his appeal of the Court's April 9 order, the final judgment, and the writ of execution, the Court directed Plaintiffs to show cause why the liens, recorded in the Superior Courts of Cobb and Fulton Counties on April 28, "should not be expunged" [Doc. 870 at 2].

Plaintiffs timely filed a brief to that effect [Doc. 877].

The Court has since received from Windsor, attached to a letter dated May 21, 2010, a "Reply to Plaintiffs' Response in opposition to William M.

Windsor's Motion to Expunge the Writ of Execution." The Court DIRECTS the Clerk of Court to file Windsor's response. But, for the following reasons, the Court concludes that it need not order the expungement of the liens recorded by Plaintiffs. Federal law clarifies the effect that federal-court judgments have on property located within a certain state:

> Every judgment rendered by a district court within a State shall be a lien on the property located in such State in the same manner, to the same extent and under the same conditions as a judgment of a court of general jurisdiction in such State, and shall cease to be a lien in the same manner and time. Whenever the law of any State requires a judgment of a State court to be registered, recorded, docketed or indexed, or any other act to be done, in a particular manner, or in a certain office or county or parish before such lien attaches, such requirements shall apply only if the law of such State authorizes the judgment of a court of the United States to be registered, recorded, docketed, indexed or otherwise conformed to rules and requirements relating to judgments of the courts of the State.

28 U.S.C. § 1962. "This code section requires that a lien arises on a federal judgment in the exact same manner in which it arises on a state or superior court judgment." Tunnelite, Inc. v. Estate of Sims, 597 S.E.2d 555, 557 (Ga. Ct. App. 2004) (citing Rhea v. Smith, 274 U.S. 434, 442 (1927)) "Not even a difference of `slight' character is permitted." rd. (citation omitted).

O.C.G.A. § 9-12-86(b), in turn, permits judgments or orders issued by a federal court to affect and become a lien upon the title to a judgment debtor's real property located within the state, provided a judgment creditor follows certain procedures:

> No judgment, decree, or order or any writ of fieri facias issued pursuant to any judgment, decree, or order of any federal court shall in any way affect or become a lien upon the title to real property until the judgment, decree, order, or writ of fieri facias is recorded in the office of the clerk of the superior court of the county in which the real property is located and is entered in the indexes to the applicable records in the office of the clerk.

"Thus, given the `same treatment' requirement of 28 U.S.C. § 1962, all that a holder of an in-state federal judgment must do to establish a lien on real property [in Georgia] is record his writ of execution on the general execution docket of the respective county." Tunnelite, Inc., 597 S.E.2d at 557 (citations omitted).

Windsor does not contest the applicability of these requirements, imposed by Georgia law made applicable by 28 U.S.C. § 1962, on Plaintiffs in recording their federal writ of execution on the general execution dockets of the Superior Courts of Cobb and Fulton Counties in this case. Windsor expressly concedes that "Plaintiffs' attorneys are correct about 28 U.S.C. [§] 1962 making Georgia law applicable in this matter."

Windsor instead emphasizes language in 28 U.S.C. § 1962-that "[e]very judgment rendered by a district court within a State shall be a lien on the property located in such State and shall cease to be a lien in the same manner and time "-to argue that Georgia's requirements for obtaining supersedeas of a state- court money judgment pending appeal, instead of the requirements for obtaining supersedeas and a stay established by the Federal Rules of Civil Procedure, control at this stage of the proceeding.

Under the Georgia requirements for obtaining a supersedeas found at O.C.G.A. § 5-6-46(a),[91] Windsor argues that the April 15 filing of his first Notice of Appeal of the Court's April 9 order, the final judgment, and the writ of execution automatically entitled him to a stay of any

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[91] Windsor correctly cites Georgia law to the effect that, "[i]n civil cases, the notice of appeal filed as provided in [O.C.G.A. § §] 5-6-37 and 5-6-38 shall serve as supersedeas upon payment of all costs in the trial court by the appellant and it shall not be necessary that a supersedeas bond or other form of security be filed," and that the trial court need only order the posting of a supersedeas bond on motion by the appellee. O.C.G.A. § 5-6-46 (a). But for the reasons stated below, this procedure for obtaining supersedeas automatically upon the appeal of a state- court judgment does not apply here; Federal Rule 62(d) does.

enforcement of that judgment and writ of execution by Plaintiffs. For that reason, Windsor argues that Plaintiffs' recording of the writ of execution on the general execution dockets of the Superior Courts of Cobb and Fulton Counties on April 28 represents an illegal attempt to execute a judgment stayed, under Georgia law, by a valid, pending appeal.

Windsor's arguments fail. First, the provisions of Georgia law defining the procedure for obtaining supersedeas in a state- court civil case (O.C.G.A. § 5-6-46(a)) and establishing a ten-day automatic stay from any judgment but a default judgment or where otherwise stipulated by the parties (4.C.G.A. § 9-11-62(a))do not apply in this federal diversity action. These two provisions of Georgia law clearly conflict with the Federal Rules of Civil Procedure: O.C.G.A. § 5-6-46(a) does not require the posting of a bond to obtain supersedeas of a money judgment, while Federal Rule62(d) generally does; O.C.G.A.9 9-11-62 (a) provides for a ten-day automatic stay on the execution or enforcement of nearly any judgment, while Federal Rule 62(a) provides for a fourteen-day automatic stay on the execution or enforcement of a judgment, with different exceptions. But in the presence of such conflict, the Federal Rules control.

The opinion in Markowitz & Co. v. Toledo Metro. Hous. Auth., 74 F.R.D. 550 (N.D. Ohio 1977), proves extremely instructive and persuasive on this point. There, the defendant argued that an Ohio statute exempted it from the Federal Rule 62(d) requirement of posting a supersedeas bond to obtain a stay of execution of a judgment against it pending

an appeal. Id. at 550. As the federal district court exercised its diversity jurisdiction to hear the case, the defendant argued that the rule of law declared in Erie R.R. Co. v. Tomkins, 304 U.S. 64 (1938), applied, making the Ohio law (which, like O.C.G.A. 9 5-6-46(a), did not require the posting of a supersedeas bond) applicable in federal court. Id. The district court considered it "clear as a matter of federal law that [the defendant had to] comply with the federal rule regarding supersedeas bond," notwithstanding the conflicting Ohio statute regarding supersedeas. Id. at 551. The district court acknowledged, as the Court has acknowledged above with regard to the Georgia state rules pressed by Windsor, that the Ohio "stake rule urged by [the defendant] directly conflict[ed] with a federal rule of procedure enacted by Congress," Federal Rule 62(d). Id. And, as the district court noted, [t] he Erie rule has never been invoked to void a Federal Rule.'" Id. (quoting Hanna v. Plumer, 380 U.S. X60, 470 (1955)) Because " [t]he federal requirement that [the defendant] post a supersedeas bond pending appeal in no way impinge [d] on" the defendant's substantive rights, and because the "supersedeas bond requirement [was] immaterial to resolving the merits of the parties` claims," the district court in Markowitz & Co. concluded that Federal Rule 62 (d)'s procedure for posting a supersedeas bond and obtaining a stay pending appeal governed in the face of a state statute's conflicting procedural structure. Conducting precisely the same analysis, this Court concludes that Federal Rule 62(d) (and, though less pertinent, Federal Rule 62(a)) control in this federal diversity action, rather than the conflicting Georgia statutes invoked by Windsor. Federal Rule 52(d)`s

supersedeas bond requirement does not touch the merits of the parties, initial dispute or the ongoing dispute regarding Windsor's post-judgment filings and the fees and costs assessed against him. Instead, that rule's supersedeas bond requirement is strictly procedural in nature. "To hold that a Federal Rule of Civil Procedure must cease to function whenever it alters the mode of enforcing state-created rights would be to disembowel either the Constitution's grant of power over federal procedure or Congress' attempt to exercise that power in the [Rules] Enabling Act." Hanna, 380 U.S. at 473-74. Federal Rule 62 is valid and, as in Markowitz & Co., controls at this stage of this closed case.

The language emphasized by Windsor from 28 U.S.C. § 1962 does not change this result. That section of federal law governs the extent to which federal-court judgments may act as liens on real property located within a given state. The language in Section 1962 thus speaks to a very different issue than the applicability of Georgia supersedeas and automatic stay provisions in a federal- court proceeding. Despite Windsor's assertions, that section of federal law does not justify applying Georgia law defining the procedures for obtaining supersedeas of a state-court judgment or an automatic stay in this federal diversity action.

O.C.G.A. § 5--6-46 (a) itself provides support for the Court's conclusion from the foregoing discussion. In pertinent part, that section of Georgia law provides: In civil cases, the notice of appeal filed as provided in O.C.G.A.§ 5-6-37 and 5-6-38 shall serve as supersedeas upon payment of all costs in

the trial court by the appellant and it shall not be necessary that a supersedeas bond or other form of security be filed (emphasis added). Windsor does not, and could not, contend that he filed a notice of appeal as provided in O.C.G.A. 5-6-37 and 5-6-38, which govern the procedure for filing and serving a notice of appeal, and otherwise perfecting an appeal, from a state-court judgment to either the Georgia Court of Appeals or the Supreme Court of Georgia. Windsor did not, and could not, direct his April 15 Notice of Appeal at either of those Georgia state appellate tribunals. By its very language, O.C.G.A. § 5-6-46(a) does not stretch as far as Windsor argues that it does, to notices of appeal filed in pursuit of an appeal to a federal appellate court.

And even if O.C.G.A. § 5-6-46(a) applied in this case and governed the procedure by which Windsor could obtain a supersedeas of the Court's April 9 order, the Clerk's final judgment, and the writ of execution issued against Windsor, Windsor's April 15 Notice of Appeal would not suffice to trigger supersedeas relief. By its clear, unambiguous terms, O.C.G.A. § 5-6-46(a) only provides for a notice of appeal to act as supersedeas from a state-court judgment "upon payment of all costs in the trial court by the appellant." See Lott v. Arrington & Hollowell, P.C., 572 S.E.2d 664, 667 (Ga. Ct. App. 2002) (filing of notice of appeal did not serve as supersedeas, as appellant failed to pay all costs in trial court and all costs in appeals preparation). As noted above, Windsor did not accompany his April 15 Notice of Appeal in this Court with the $455.00 appeal filing fee. Only on May 5,

2010, when Windsor filed his "Second Amended Notice of Appeal" of the April 9 order, judgment, and writ of execution did Windsor submit the required fee. Because Windsor did not pay all costs in preparation of his appeal when he filed his April 15 Notice of Appeal, he would not be entitled to supersedeas under the express language of O.C.G.A. § 5-6-46(a), even if it applied here.

For these reasons, the Court rejects Windsor's arguments in his reply that he obtained a stay, pursuant to Georgia law, of the Court's April 9 order, the Clerk's final judgment in the amount of $192,377.87, and the writ of execution in that amount when he filed his Notice of Appeal in this Court on April 15.

The Georgia statutes cited by Windsor in his reply simply do not apply here; and even if they did, Windsor would not have satisfied their strictures upon filing his Notice of Appeal on April 15.

Pursuant to the Federal Rules of Civil Procedure, which do apply, Windsor received a stay of the Court's April 9 order, the Clerk's judgment, and the writ of execution when the Court approved his bond on April 30, 2010-two days after Plaintiffs recorded the writ of execution. See FED. R. Civ. P. 62(d) ("The stay takes effect when the court approves the bond."). Given this chain of events, the Court concludes that no stay of the April 9 order, the Clerk's judgment, or the writ of execution had been ordered by this Court when Plaintiffs recorded their writ on April 28.

But Windsor argues that the language in 28 U.S.C. 1962 must mean something here and, to an extent, he is correct. The language in Section 1962 directs this Court to look to Georgia law to determine the extent to which the federal-court money judgment issued on April 9, and by extension the writ of execution, may act as liens on Windsor's real property located in the state. Looking to Georgia law for an answer to that question, the Court reaches the core of the instant dispute and, at the same time, its resolution. Georgia law does not permit this Court to expunge the writ of execution recorded by Plaintiffs on the general execution dockets of the Superior Courts of Cobb and Fulton Counties on April 28, notwithstanding the stay of the judgment and the writ of execution that this Court granted Windsor on April 30. The operative case on point is Bank South, N.A. v. Roswell Jeep Eagle, Inc. 408 S.E.2d 503 (Ga. Ct. App. 1991). There, a jury returned a verdict in favor of Roswell Jeep Eagle, Inc. ("Roswell Jeep"), in the amount of $187,681.47, and judgment was entered in that amount on May 7, 1991. Id. at 504. On May 20, after the automatic ten-day stay provided by O.C.G.A. § 9-11-62 (a) had expired, Roswell. Jeep obtained a writ of fieri facias4 and began entering that writ on the general execution dockets of numerous county superior courts throughout the state. Id. On June 6, Bank South filed a notice of appeal and a motion to allow the filing of a cash supersedeas bond in the amount of $206,449.62; these actions, under Georgia law, automatically stayed the money judgment previously entered in Roswell Jeep's favor. Id. Bank South also moved the trial court to void the entry of the money judgment and the writ of fieri

facial on the general execution dockets throughout the state. Id. Applying Georgia law, the trial court concluded that it could not order the judgment and writ of fieri facia expunged from the general execution dockets where they had been recorded by Roswell Jeep. Id. The Georgia Court of Appeals affirmed this determination. Id.

At the time Roswell Jeep recorded the writ of fieri facia around the state, Bank South had taken no steps to stay or supersede the judgment entered against it by the trial court. "Thus, Roswell Jeep's recordation of the writ of fieri facia (execution) commanding the sheriff to levy on defendant's property was valid." Id. at 505. Under Georgia law,

As the court in Bank South noted, a writ of fieri facia is "a writ of execution that directs a marshal or sheriff to seize and sell a defendant's property to satisfy a money judgment." BLACK'S LAW DICTIONARY 703 (9th ed. 2009). The general rule is that a supersedeas suspends all further proceedings in the suit in which the judgment superseded is rendered, such as are based upon and relate to the carrying into effect of that judgment. Under this rule the supersedeas, during its pendency, prevents any steps to enforce or carry into effect the judgment, such as issuing an execution based thereon. Tanner v. Wilson, 192 S.E. 425, 428 (Ga. 1937) (internal quotation marks and citations omitted). Given this rule, once Bank South took sufficient steps, as prescribed by applicable Georgia law, to obtain a supersedeas of the trial court's judgment, Roswell Jeep could not enter the writ of fieri facia or the judgment on any general execution

docket in the state in an attempt to enforce or execute the judgment in its favor. But before Bank South took such steps-between the date of judgment on May 7, 1991, and the date of filing of the notice of appeal on June 6-Roswell Jeep could validly act to enforce and execute the trial court's judgment.

The court in Bank South then noted "a longstanding line of Georgia Supreme Court decisions holding that the only effect of a supersedeas is to stay further action in the case, and a court is without authority to order that the supersedeas operate retroactively so as to undo what has previously been done in execution of the judgment appealed." Id. at 506 (citations omitted). In these decisions, the Bank South court found support to affirm the trial court's conclusion that it could not "order the recordation of the writ [of fieri facia] expunged from the general execution dockets by reason of [Bank South's] posting a cash supersedeas bond in lieu of the judgment lien." Id. at 505. Crucially, though, "execution [was] suspended by the entering of Bank South's notice of appeal" and the automatic stay and supersedeas that resulted therefrom under Georgia law. Id. After the date of filing of Bank South's notice of appeal, June 6, Roswell Jeep could take no further action to enforce or execute the judgment in its favor, as the filing of the notice of appeal and the posting of the cash supersedeas bond by Bank South "render[ed] ineffectual the writs of fieri facia." Id. at 506. The court then laid out the procedure prescribed by Georgia law for determining the status of the liens on Bank South's property going forward through the appeals process: If the judgment entered on the jury

verdict is affirmed on appeal, the judgment will be satisfied by the cash [supersedeas] bond and there will be no unsatisfied judgment for the sheriff to execute on [Bank South's] properties. The cash bond would have the legal effect of standing in lieu of the lien which otherwise attaches and remains by way of the recorded writs although their enforcement is stayed by the supersedeas effected by the filing of the notice of appeal. Id. In effect, though the writ of fieri facial would not be expunged from the general execution dockets where Roswell Jeep had recorded it, Roswell Jeep could take no action to enforce the writ given the supersedeas bond and Bank South's pending, valid appeal.

And Plaintiffs here concede as much. Recognizing the approval of Windsor's cash supersedeas bond on April 30-two days after they recorded the writ of execution in two counties' superior courts-Plaintiffs concede that 'enforcement of the writ of execution on the judgment may not proceed" under Georgia law [Doc. 877 at 16]. According to Plaintiffs, [i]f there is a reversal of the appealed orders, then [Plaintiffs] may file a notice of satisfaction and cancellation on the general execution dockets Otherwise, if there is an affirmance of the appealed orders, [Plaintiffs] may seek disbursement of the registry funds [deposited by Windsor in lieu of a formal bond) and after having received those funds file a notice of satisfaction and cancellation on the general execution dockets. [Doc. 877 at lb- 17]. This procedure mirrors the procedure laid out by the Georgia Court of Appeals in Bank South.

For these reasons, the Court concludes that it may not, in a manner consistent with Georgia law, order the expungement of the writ of execution recorded by Plaintiffs on the general execution dockets of the Superior Courts of Cobb and Fulton Counties before any stay had been ordered or any bond approved in Windsor's favor in this case, notwithstanding the stay subsequently granted to Windsor by this Court on April 30, 2010. But the Court also notes that Plaintiffs may not, in a manner consistent with Georgia law, take further action to enforce or execute the Court's April 9 order, the final judgment in the amount of $192,377.87 entered on that date, or the attendant writ of execution during the pendency of Windsor's appeal from that order and those decrees to the United States Court of Appeals for the Eleventh Circuit.

To the extent that Windsor's reply requests any additional affirmative relief from the Court or Plaintiffs, such requests are hereby DENIED.

SO ORDERED, this 25 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

This closed civil action comes before the Court on numerous documents delivered by courier to the chambers of the undersigned by Defendant William M. Windsor ("Windsor"). Windsor, and those acting in concert with him or at his behest, have been permanently enjoined from filing any further pleadings, motions, or other papers in this closed case by order of the Court dated December 22, 2009 [Doc. 723 at 19] Windsor had these documents delivered to the chambers of the undersigned requesting that the undersigned file them with the Clerk of Court on his behalf.

The first such document is a one-page letter dated May 26, 2010. In that letter, Windsor states:

> You recently wrote in one of your orders that I need to pay by cashier's check. I have notified the Clerk of Court that I need to file In Forma Pauperis applications on all of my appeals. Please advise.

The Court construes this letter as a motion to proceed in forma pauperis on any appeals taken from orders issued by the Court in this closed civil action and DIRECTS the Clerk of Court to file Windsor's letter accordingly.

Upon consideration, however, Windsor's motion to proceed in forma pauperis to pursue his appeals is, at this time, DENIED WITHOUT PREJUDICE to later refiling. Based on the recent filings that Windsor has submitted to this Court regarding his financial status, it does not appear that Windsor is entitled to proceed in forma pauperis on appeal. If Windsor persists in his contentions to the contrary, he may obtain the necessary paperwork to apply for in forma pauperis status on appeal from the Clerk's public filing counter and must make statements on those forms regarding his financial wherewithal under penalty of perjury. At that point, an evidentiary hearing may be necessary to determine whether Windsor's financial situation merits in forma pauperis status; at such a hearing, Windsor would be required to provide testimony under oath regarding his ability to pay the filing fees required to perfect appeals from this Court. Given these procedures required to attain in forma

pauperis status going forward, Windsor's motion to proceed in forma pauperis on appeal is, at this time, denied without prejudice to eventual refiling.

Next, the Court considers "William M. Windsor's Emergency Motion for Protective Order and to Quash Interrogatories and Request for Production of Documents," to which Windsor attached a cover letter dated May 25, 2010. The Clerk of Court is DIRECTED to file this proposed motion, its attachments, and the cover letter.

Upon consideration, the Court DISMISSES AS MOOT Windsor's motion for a protective order and to quash the post-judgment interrogatories and document production requests issued to him by counsel for Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively, "Plaintiffs") In their post-judgment discovery requests, which Plaintiffs served on Windsor on April 28, it appears that Plaintiffs attempted to begin collection on the final judgment in the amount of $192,377.87 issued by the Clerk of Court on April 9. These discovery requests predated the Court's April 30 stay of that judgment, the Court's order directing the Clerk to issue the judgment, and the writ of execution issued thereon. Plaintiffs now acknowledge that, given the stay, they may not pursue post-judgment discovery in an attempt to collect on the Court's April 9 order, the final judgment issued that day, or the writ of execution. Plaintiffs' concession renders Windsor's motion for a protective order and to quash the post-judgment discovery requests moot. But the Court notes that Windsor may move to quash any post-

judgment discovery efforts that Plaintiffs attempt to pursue while the stay imposed by order of the Court dated April 30 remains in effect.

Windsor attached the next four proposed motions to a cover letter dated May 24, 2010. The Clerk of Court is DIRECTED to file Windsor's May 24 letter.

The Court next considers "William M. Windsor's Motion for Protective Order Dated May 24, 2010." The day after Windsor had this proposed motion delivered to the chambers of the undersigned, the Court granted a prior motion by Windsor for a protective order and limited the extent to which Plaintiffs, through counsel, may use, convey, or otherwise disclose, in any way, confidential financial information submitted to Plaintiffs' counsel by Windsor [Doc. 886 at 4-5] Windsor's motion for a protective order dated May 24, 2010 asks, in material part, for relief that the Court granted in its order dated May 25. As such, the May 24 motion has been rendered moot, and the Court will not make an exception to the permanent filing injunction to permit the filing of "William M. Windsor's Motion for Protective Order Dated May 24, 2010" on the docket of this closed case.

Next, the Court considers Windsor's proposed "Motion to Approve Service by Electronic Means." The Clerk of Court is DIRECTED to file that motion. But upon consideration, that motion is DENIED. Windsor presents no compelling reason why this Court should permit him to file proposed motions or their attachments electronically. Federal Rule of

Civil Procedure 5 (b) (2) (E) permits service by electronic means only if the person or entity to be served consents to such service in writing. Electronic service is also not workable where, given the permanent filing injunction, no documents may be filed by Windsor, or served on the opposing side's counsel, without the Court's prior review and approval. Windsor's motion to approve service by electronic means is DENIED.

Next, the Court considers Windsor's proposed "Motion for Reconsideration of April 26, 2010 Contempt Order." In the proposed motion, Windsor raises arguments concerning the validity of the Court's written order finding him in contempt of court [Doc. 794]. Windsor voiced essentially the same arguments at the show-cause hearing held prior to the Court's issuance of the order. On the merits, the Court also concludes that Windsor's proposed motion presents no compelling reasons for the Court to reconsider its April 26 order finding Windsor in contempt. And finally, the Court notes that Windsor has submitted a Notice of Appeal as to the Court's April 26 order [Doc. 894], which according to Windsor is "based upon violation of Constitutional rights, violations of various statutes (both civil and criminal), many errors by Judge Evans, intentional torts, fraud upon the court, and more" [Doc. 894 at 21 Given the repetition, in the proposed motion, of arguments already made by Windsor regarding the Court's decision to find and adjudge Windsor in contempt of court, the lack of merit that the Court sees in those arguments, and the jurisdictional issues raised by the blanket Notice of Appeal filed regarding the Court's April 26 order, the

Court will not make an exception to the permanent filing injunction to permit Windsor to file his proposed "Motion for Reconsideration of April 26, 2010 Contempt Order" on the docket of this closed case.

Finally, the Court considers Windsor's proposed "Motion for Reconsideration of Order Dated April 27, 2010 [Doc. 799] Regarding Windsor's Emergency Motion for Stay and Motion to Vacate Orders [Doc. 787]." In its April 27 order, the Court denied an "Emergency Motion for Stay and Motion to Vacate Orders" that the Court had permitted Windsor to file [Doc. 799 at 1] Though the Court noted its "difficulty determining precisely what Windsor request [ed] the Court to stay" in his motion, the Court construed Windsor's motion to request, in part, a stay of the Court's April 9 order directing him to personally pay Plaintiffs $192,377.87 in attorneys' fees, costs, and expenses, the final judgment issued by the Clerk of Court, and the writ of execution issued in that amount as well [Doc. 799 at 3] In the alternative, the Court construed Windsor's motion to request a stay of the Court's December 22 order imposing the permanent filing injunction [Doc. 799 at 3-4] And the Court denied Windsor's motion to vacate all orders issued by the Court after December 31, 2009 [Doc. 799 at 4-5] Windsor has since filed Notices of Appeal with regard to the Court's April 9 order [Docs. 766, 805, 850]. The Court notes that Windsor has already made, and the Court has already rejected, many of the arguments presented in Windsor's proposed motion for reconsideration of the April 27 order denying his "Emergency Motion for Stay and

Motion to Vacate Orders." Moreover, the Court does not see any compelling reason in those arguments to justify reconsideration of that order. And finally, considering the jurisdictional issues raised by Windsor's Notices of Appeal from the Court's April 9 order assessing fees and costs against him, the Court refuses to make an exception to the permanent filing injunction to permit Windsor to file his proposed motion for reconsideration in this closed case.

To summarize:

- The Clerk of Court is DIRECTED to enter Windsor's letter dated May 26, 2010, on the docket, and to docket that letter as a motion to proceed in forma pauperis on appeal; further, that motion is DENIED WITHOUT PREJUDICE to later refiling;
- The Clerk of Court is DIRECTED to enter Windsor's letter dated May 25, 2010, and its attachments, on the docket;
- The Clerk of Court is DIRECTED to enter "William M. Windsor's Emergency Motion for Protective Order and to Quash Interrogatories and Request for Production of Documents," and its attachments, on the docket; further, that motion is DISMISSED AS MOOT;
- The Clerk of Court is DIRECTED to enter Windsor's letter dated May 24, 2010, on the docket;
- The Clerk of Court is DIRECTED to enter Windsor's "Motion to Approve Service by Electronic Means" on the docket; further, that motion is DENIED; and
- The Court will not make an exception to the permanent filing injunction to permit Windsor to file the proposed "William M. Windsor's Motion for

Protective Order Dated May 24, 2010," the proposed "Motion for Reconsideration of April 26, 2010 Contempt Order," or the proposed "Motion for Reconsideration of Order Dated April 27, 2010 [Doc. 799] Regarding Windsor's Emergency Motion for Stay and Motion to Vacate Orders [Doc. 787].

SO ORDERED, this 27 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

The Court has received this date a letter dated May 28, 2010 from William M. Windsor, including a motion captioned as follows: "Motion for Relief That Is Barred by a Pending Appeal, to Simplify Matters, and for Reconsideration of Orders (Docket Numbers 799, 823, 840, 870, 874, 885, 886, and 887)."

Windsor requests that the Court direct the Clerk to file the motion.

The Court declines to direct the Clerk to file the motion. While Windsor contends that granting this motion would simplify and expedite proceedings in this case, in fact the opposite is correct. It would prolong the proceedings. In addition, the matters

raised in the motion are duplicative of previous filings.

In summary, the Court declines to direct the Clerk to file the subject motion.

SO ORDERED, this 27 day of May, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

MAID OF THE MIST CORPORATION And MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs

v. CIVIL ACTION NO. 1:06-CV-0714-ODE

ALCATRAZ MEDIA, LCC, ALCATRAZ MEDIA, INC. And WILLIAM M.WINDSOR,

Defendants

ORDER

Defendant William M. Windsor ("Windsor") has sent to the chambers of the undersigned four proposed motions-three attached to a cover letter dated June 11, 2010, and one attached to a cover letter dated June 14, 2010. Windsor captioned the first three proposed motions "Motion for Remand of Appeals Awarding Attorneys' Fees and Sanctions," "Motion for Remand," and "William M. Windsor's Motion for Protective Order Dated June 10, 2010." Windsor captioned the fourth and final proposed motion "Motion for Reconsideration of Order Dated May 25, 2010 [Doc. 887] on William M. Windsor's Motion to Expunge the Writ of Execution."

Windsor, and those acting in concert with him or at his behest, have been permanently enjoined by order of the Court dated December 22, 2009, from filing any further motions, pleadings, or other papers in this closed case [Doc. 723 at 19] Recognizing this, Windsor sent the proposed motions to the chambers of the undersigned requesting that the undersigned file them as pending motions with the Clerk of Court on his behalf.

The Court will not make an exception to the permanent filing injunction to grant Windsor leave to file any of the four motions that he now proposes for filing.

On May 28, 2010, the Court declined Windsor's request to file, and treat as a pending motion, his proposed "Motion for Relief That Is Barred by a Pending Appeal, to Simplify Matters, and for Reconsideration of Orders" [Doc. 912-3] Windsor's "Motion for Remand of Appeals Awarding Attorneys' Fees and Sanctions" and "Motion for Remand" request, to some extent, relief requested by Windsor's earlier proposed motion, which the Court did not permit Windsor to file. In fact, as their captions indicate, the two proposed motions are partly duplicative of one another. For the same reasons as those set forth by the Court in its May 28 order, the Court will not grant Windsor leave to file his proposed "Motion for Remand of Appeals Awarding Attorneys' Fees and Sanctions" or his proposed "Motion for Remand."

Windsor acknowledges that, in an order dated May 27, 2010, the Court dismissed as moot a prior

motion by Windsor seeking a protective order sealing all documents with docket numbers greater than 723 in this closed case [Doc. 909 at 3-4] Windsor requests the same relief in his latest proposed motion for a protective order. For the same reasons as those set forth by the Court in its May 27 order, the Court considers Windsor's "Motion for Protective Order Dated June 10, 2010" moot and will not grant Windsor leave to file that motion on the docket. Finally, the Court comes to Windsor's proposed "Motion for Reconsideration of Order Dated May 25, 2010 [Doc. 887] on William M. Windsor's Motion to Expunge the Writ of Execution." On June 11, 2010, Windsor filed a Notice of Appeal as to, in part, the Court's May 25 order found at Docket Number 887 [Doc. 919]. Windsor's Notice of Appeal deprives this Court of jurisdiction to reconsider its May 25 order. See Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.") (citation omitted). As such, the Court will not grant Windsor leave to file his proposed "Motion for Reconsideration of Order Dated May 25, 2010 [Doc. 887] on William M. Windsor's Motion to Expunge the Writ of Execution" on the docket of this closed case.

The Court has forwarded the aforementioned proposed motions and their cover letters and attachments to the Clerk of Court solely to perfect the record going forward. The Court DIRECTS the Clerk not to docket these documents as active, pending motions.

SO ORDERED, this 18 day of June, 2010.

/s
ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

CONSTITUTIONAL PROVISIONS, TREATISES, STATUTES, ORDINANCES, AND REGULATIONS

28 U.S.C. § 144 Bias or prejudice of judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith

28 U.S.C. § 455 Disqualification of justice, judge, or magistrate judge

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome),

disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

FRCP Rule 60 Relief from Judgment or Order

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions.

The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding.

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) Timing.

A motion under Rule 60(b) must be made within a reasonable time — and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) Effect on Finality.
The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief.

This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief under 28 U.S.C. § 1655 to a defendant who was not personally notified of the action; or

(3) set aside a judgment for fraud on the court.

(e) Bills and Writs Abolished.

The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.

Constitution of the United States – Article VI:

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.
This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Constitution of the United States – First Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Constitution of the United States – Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Constitution of the United States – Sixth Amendment:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district where in the crime shall have been committed, which district shall have been previously ascertained by law, and

to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Constitution of the United States – Eighth Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Constitution of the United States – Ninth Amendment:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Constitution of the United States – Fourteenth Amendment:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for

services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.